

# Village of Pawling Planning Board Minutes

---

Date: April 04<sup>th</sup>, 2022

Present: Robert Pfister Jr., Chairman  
Mike Mersand, Member  
Jean Milord, Member  
Lou Musella, Member  
Peter Pennelle, Member

APPROVED BY  
VILLAGE OF PAWLING  
PLANNING BOARD

Also Present: Dave Daniels (Village Council)  
Caren LoBrutto (Village Planner)  
Brian & Jean Senno (Applicant)  
Jordan Strack (Engineer for Applicant)

---

On, **Tuesday, April 04<sup>th</sup>, 2023 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 Musella made a motion to approve minutes of January 10<sup>th</sup>, 2022 Planning Board meeting. The motion was seconded by Member Pennelle. The motion passed with all members in favor.***

## **Application: Major Subdivision**

**Brian & Jean Senno**

**28 Walnut Street Subdivision**

**Parcel ID/Zoning District: 6957-20-971145/R3 Zoning District**

Village Planner, Caren LoBrutto said the first time you proposed building on top of the garage. Mr. Senno replied yes, that was a garage addition but that didn't come to fruition so that's when we came up with the plan to subdivide to build the single family house. Ms. LoBrutto stated the applicant is seeking an area variance from the Zoning Board of Appeals for frontage. There's a required frontage of 100 feet and the applicant is not able to provide that 100 feet. The applicant is also seeking a permit from the DEC (Department of Environmental Conservation) grading in the adjacent area of the regulated wetlands at the rear of their property. The Planning Board declared Lead Agency at the last meeting and the declaration was circulated. Since it's been determined that applicant also needs the DEC permit, the Planning Board has now circulated the intent to be Lead Agency to the DEC because they are now considered an "involved agency." I know that there are revisions to the zoning bulk table. I think it would be best if we could continue with that thread and make sure we identify each lot separately for each category of the Bulk Table to make sure it complies. Mr. Senno said yes, we'll separate that Table absolutely.

Ms. LoBrutto said according to Code, this subdivision is considered to be a major subdivision. When you get to the Urban Regulations in the Code, it says that an application to the Planning Board for approval of a major

# Village of Pawling Planning Board Minutes

---

Subdivision requires the application of the Urban Regulations. As such the land designation key, which is in the Comprehensive Plan, identifies this site as one that would need to be in compliance with the Type III Infill House. This will further affect the Bulk regulations on your subdivision sheet and so your consultant should take a look at the Urban Regulations. The Urban Regulations would trump the zoning bulk for those things that they apply to at the same time. However, for those things that don't apply at the same time, like lot coverage, the Bulk Regulations still apply. With regards to comment #4 this relates to the applicant's petition to the Planning Board for subdivision approval by way of an area variance that allows the applicant to have less than the required frontage. The Planning Board has already mentioned, there are some members that believe that this is an affront to the Master Plan's design and are concerned that this a flag lot will lead to other people coming in and wanting to do flag lots. I would suggest you take a look at the neighborhood on Dutchess County Parcel Access and lay out your argument that this site is unique and why you think it's only possible to do a flag lot on this site as compared to other sites. You might look at the historic development of this area and how it relates to when the zoning was applied to this area. Mr. Senno replied I answered your memorandum via email so we have a response on the character of the neighborhood and how our lot is unique. If you don't mind I have quite a few addresses and quite a few projects that have been previously granted variances and constructed that I would like to address. Currently there are two flag lots in the Village right now, both are zoned R3. These addresses are 5 East Main Street and 55 West Main Street. There are currently two existing lots that have zero road frontage that are zoned R3, these addresses are 2 Walnut Street which is six houses down from ours and 80 East Main Street. There are three properties with road frontages of 33 feet, 32 feet and 24 feet; these addresses are 8 Smith Street, 6 Smith Street and 15 Dutcher Avenue respectively. In early 2000s the Baxter Green major subdivision was zoned R1. This is a 4 Street, 40 new tax parcel major subdivision of which all 40 properties are zoned R1 and not one of them meet any requirement for R1 zoning. Only 7 of the 40 parcels meet R3 zoning. This means that each one of these individual parcels required tens of thousands of feet worth of variances per tax lot for every quantifiable zoning regulation there is. That said, we believe that the Master Plan was intended for growth on both ends of the project spectrum. A 40 parcel subdivision like the Baxter Green major subdivision is large. Comparably, ours is very minimal, just dividing one parcel into two smaller parcels then needing the variance from the ZBA. Mr. Strack said we did make the decision to go with the flag lot style as it limited the amount of variances that would be required. There's a handful of lots in the Walnut neighborhood with 60 feet frontages. If we did try to do that on this lot, based on the existing house and go more or less straight down the middle, both lots would not meet frontages therefore requiring setback variances. If we tried to meet side yard setbacks, we'd be trying to building a 20/25 foot wide house. Based on the uniqueness of the lot, the age of the neighborhood, the existing garage and driveway kind of being set off to that side, we did feel this was the most aesthetically pleasing option of the two. Ms. LoBrutto suggested the applicant put it in writing showing the specific individual properties on a map. As to the Baxter Green subdivision, she said sometimes major subdivisions like that come under other sections of the code which then trump the existing zoning. Village Attorney, Dave Daniels commented that Baxter Green was the project that was constructed shortly after the Master Plan finalized and was one of the properties specifically evaluated by Andreas Duany. There is a drawing in the Master Plan of how it is supposed to look. It was done as sort of a neighborhood theme with a central green. There were all sorts of considerations with that project including open space. They also provided the Village with wells that are now being developed. I don't think that's really a practical comparison to make with your project. Also assuming that lot, if not all those lots are non-conforming; I don't know that that's necessarily what the issue is. The issue is more about the precedence that this sets for future residents coming in who have similar lots needing variances. The variances is for the ZBA to determine; however, in

## Village of Pawling Planning Board Minutes

---

terms of character and conformity of the community to the extent that your lot is not unique; those people could also apply for variances which would be very difficult to turn down. From a SEQR and character of the neighborhood perspective, that is something to think about. Mr. Senno replied I have the exact stats of the three streets that I live near, Walnut Street, Elm Street and Union Street. Fourteen of the twenty three properties have road frontage of 66 feet or less with one property having zero feet of road frontage. My point is that twenty four of the thirty one are non-conforming. That's the vast majority. Mine is one of the only parcels that is conforming and it's more than double the average size lot frontage then all of the existing lots. Mr. Strack commented we can show this when we submit on the larger properties in the area that would be able to do this but for one, this parcel is unique because their house is located on one side of the parcel itself. On most of the other parcels, houses are going to be kind of centered on the parcel so you're not even going to have 30 feet on site to put a driveway in. We can formalize that and show that on a map if that's going to help. Mr. Daniels replied it's not just your neighborhood. This would potentially create precedents for other neighborhoods as well. Again, unless the point you're making is a valid one, I think that if there are a whole bunch of non-conforming lots in that neighborhood and you're fitting right in that would be a basis perhaps for differentiating from other areas that are R3. Mr. Strack said I know the Planning Board has to make their considerations. As Mr. Senno stated, we were a little confused after the past meeting as to when we did go to zoning, and I know we got that rolling, but when we presented our plan, the ZBA was pretty comfortable with how unique the lot was in this situation. I thought the site visit with the ZBA was very productive. Members of the Zoning Board came out to the site visit and one of the first comments that they said was that we have more space than our neighbors. We walked around the entire property. So you guys are welcome to come over to my house and see what we're talking about, I would encourage it. Chairman Pfister asked Mr. Senno if he had anything staked out? Mr. Senno said he would get it staked out if the Planning Board would like to see it. My driveway, as you can see from the street, is essentially the unofficial line for the frontage for lot two. You can see that and the tree line and then where it would turn out in the back of the lot where the house would be. Member Musella said I've been up and down Walnut Street a number of times since we've had this project in front of us. I agree that it's a unique situation. As far as precedent goes, I try to use that argument a number of times when I was on the ZBA. While it may be true, each case is an individual case and as a Board we weigh the pros and cons of each case and make a determination on that. I personally feel that this particular subdivision and addition would enhance the neighborhood. I think it's a plus. If necessary we can set restrictions on landscaping and fencing so the flag lot isn't pronounced. Mr. Daniels said in addition to the site visit which I think is a great idea, it would be helpful if you could sort of show the other houses in the whole district so everybody can sort of see how many other lots could conceivably apply for the same thing and maybe create a case for equivalency. Mr. Senno said I actually did do that because I've been on DC Parcel Access for about 30 hours and there's one other house in an R3 zone that can do what we're trying to do with the road frontage that we have and where the house is located. It's actually on Charles Colman Blvd. Chairman Pfister said, yes, I was looking at that myself. That house is kind of like your property where it's offset to the side of the property. There are three or four other lots that could still maintain 100 feet of road frontage and still get a variance for a driveway and still have enough property to subdivide but those houses are generally centered on the piece of property which would be a little bit different. Mr. Senno said I also think it unique to find a family that wants to subdivide their property and own both lots. We're trying to build a house for my family to live in and the two family house is going to be for my in-laws. Chairman Pfister said we appreciate that you're very nice people and we're not trying to make things hard for anybody. Member Mersand said I'm in favor of the project. I have a house on



# Village of Pawling Planning Board Minutes

---

Elm Street and have seen what the Mr. and Mrs. Senno have done with the property. I believe there's no questions that if you put the same care into this project, it would come out looking great but you can see that we have a lot to get through to get to that point. Member Pennelle said I'm not opposed to the project because 80 East Main Street is my backyard and we get along. Mr. Senno commented that's a stack lot because his driveway goes through your property. Mr. Pennelle said, not my property; it goes through the house in front on the left side. That said, Mr. Pennelle agreed that subdivision would be an improvement in the area and said it's going to stay in the family, that's the key. They're going to keep it neat and clean and that's what you want. Member Milord said my only concern is around precedent moving forward if granted the approval and what that would say to other developers in terms of respective properties in the community. In terms of the plan to keep it in the family and keep it mother-daughter, I think that's great involvement. Ultimately I think a site visit would be helpful to actually see the intent. Having it staked and a walk through, for me, would be helpful in this situation. Chairman Pfister said I would like you guys to do a little bit more to show how this is unique compared to some of the other properties in the R3 zone.

Mr. Senno asked do we need a universal 5-0 vote or is it a 3 – 2 thing. Mr. Daniels replied that it's a majority vote. Mr. Strack said we've coordinated with DEC and cultural resources and asked if the Applicant would need the DEC permits for ruling on SEQR. Ms. LoBrutto replied for cultural resources we would need the SHPO "No Effect" letter. Go ahead and submit or you can wait but know that it's a 30 day review cycle. For the DEC permit, yes. You don't have to have the permit in hand but we need to have some idea. Mr. Senno said I have to get them to approve the wetland layout. DEC did come out and map it. I just have to get their final signoff on that. Ms. LoBrutto asked Mr. Senno to forward any DEC correspondence for the record and reminded the applicants that they also have the turtles to address. At DEC, that's the Wild Life Division. She said I would probably start with whoever you worked with on the wetlands and see if they can give you the appropriate contact. She then asked the applicant to speak a little bit about those segmented retaining walls. Mr. Strack replied that was preliminary before we knew we were definitely going to be within the 100 foot buffer. We still may need them depending on if they want some area up top. If so then it's worth going through with the DEC.

Mr. Senno asked about next steps. Ms. LoBrutto replied you'll have some sort of submission to the Planning Board after the site visit. The Planning Board will need to make a SEQR determination because they can't approve the subdivision without that. SHPO and turtles need to be addressed and resolved. Mr. Senno asked if they were still going to have to come before the Planning Board before meeting with the ZBA. Ms. LoBrutto said, yes, because they can't grant the variance until SEQR determination is made and the Planning Board can't approve the subdivision until the area variance is granted. The Planning Board will need to set a public hearing for subdivision unless it's something that's waivable. Mr. Daniels said he will have to do some research on that. Mr. Senno asked the Board if they will have to repeat the public hearing with the Zoning Board to grant the area variance since a public hearing already took place for that purpose. Mr. Daniels said he would look into that. Mrs. Senno said I reviewed the SEQR Handbook and there is a paragraph about how one agency can make a determination prior to SEQR as long as there is no physical disturbance. She further commented I understand this went off the rails and we're trying to get it back on. The mailings and everything are a little bit costly and very time consuming for everybody so I'm hoping there is a way to bypass the public hearing with the ZBA. Ms. LoBrutto said there are certain area variances that can be granted as Type II under SEQR but the frontage is not one of them. There's a whole list of Type II actions that don't require the more involved SEQR process but this is not one of those actions; we have to do SEQR. The ZBA is required to do a

# Village of Pawling Planning Board Minutes

---

Public Hearing, Mr. Daniels will look into whether the ZBA would need to re-notice it or not. As far as the Planning Board, also under their code, they may be required to do a public hearing or it may be something that is up to their discretion. For example for site plan, it's up to the Planning Board's discretion. Mr. Daniels Will look into that as well for subdivision. Chairman Pfister said the Planning Board will take that into consideration since the neighbors were already notified about the subdivision through the ZBA. Mr. Senno said we had a pretty good turnout for it at the ZBA meeting. Mr. Strack asked if the unlisted reasoning is because a variance would be required and asked why it wasn't listed as a standard Type II action. Ms. LoBrutto replied, there's Type I, Type II and there's Unlisted; most actions are Unlisted. Type I actions are actions that are considered to be substantial enough that they might result in significant potential adverse impacts. Type II are things like a building permit or certain area variances like setbacks for single family homes only. Construction of less than 4,000 square feet of non-residential development can be listed as Type II action as well as routine administration by various governments is a Type II Action. There's a whole list of them, you're not a Type I and you're not a Type II so then you're Unlisted and subdivisions are never a Type II action right off the bat.

Ms. LoBrutto recapped next steps, a public hearing would have to take place before the Planning Board makes a SEQR determination. Then area variance, then subdivision approval. During this time the applicant is required to work on addressing the SHPO "No Effect" and turtles with the DEC. Ms. Senno asked so that second public hearing would be here. Ms. LoBrutto said, yes, the Planning Board has to do their own public hearing. Chairman Pfister said it's just a matter of if we can waive the public hearing or not, it's not clear for a subdivision. That being said, we shouldn't call for a public hearing until all of the information Ms. LoBrutto listed has been addressed and resolved. You're going to have to do your research on the Urban Regulations because there might be other variances that you're going to need if this property is going to have to adhere to the Urban Regulations. I suggest you provide in writing why you feel this lot is unique for the R3 zone so if we do have a public hearing that could be considered.

Chairman Pfister suggested the Board schedule the site visit. Discussion ensued regarding how Open Meetings Law might apply to this situation, the Board determined that there would be no violation so long as the application is not discussed during the visit. Mr. Senno said he would do quick markup of the site. The Planning Board scheduled the site visit for Friday, April 7<sup>th</sup> at 5:30 pm.

## 146 East Main Street

Chairman Pfister informed the Board that the applicant requested to be taken off the agenda for this meeting.

## Adjournment

***Member Pennelle made a motion to adjourn until the next Planning Board meeting scheduled for Tuesday, May 09, 2023. Member Milord seconded the Motion. The motion passed with all members in favor.***

Submitted by:



Vivian Nikolatos

Planning Board Secretary