

Meeting Date:	October 12, 2021
Present:	Steve Goldberg, Chairman Adam Muroski, Member Peter Pennelle, Member Robert Pfister, Member Lou Musella, Member
Also Present:	Lauri Taylor, Mayor Jonathan Bardavid, Attorney for Planning Board Caren LoBrutto, Village Planner Joe Zarecki, Architect John Kline, Applicant Johanna Kline, Applicant

On, *Tuesday, October 12, 2021* at 7:00 PM, the Planning Board met at Village Hall. The Meeting was called to order by Vivian Nikolatos, Secretary and began with roll call as indicated above and The Pledge of Allegiance.

**105 West Main Street/Pawling House Bed & Breakfast**

Joe Zarecki, Architect to Applicant’s John and Johanna Kline explained that the project is an existing Bed & Breakfast that has 4 guest rooms. The Applicants are seeking approval to build an Accessory Dwelling where the applicant’s will live. The Bed & Breakfast will continue operation under a Special Use Permit previously approved. *Chairman Goldberg reviewed Village Planner, Ms. LoBrutto’s analysis then made a motion to open the Public Hearing. Member Lou Musella seconded the motion. All were in favor.*

With no comments from the Public, *Member Robert Pfister made a motion to keep the Public Hearing open for seven days for written comment. Chairman Goldberg seconded the motion. All were in favor.*

*Chairman Goldberg, then, made a motion to Declare Lead Agency. Member Rob Pfister seconded the motion. All were in favor.*

Ms. LoBrutto reviewed the required variances:

- Side and rear yards (single & total) as specified in Schedule A of the Zoning Code
- Size of the Accessory Building § 98-80 of the Zoning Code

Chairman Goldberg asked the applicant’s if they understand those variances and Mr. Zarecki replied in the affirmative.

Chairman Goldberg explained that barring new information the Planning Board would be in position to conclude SEQR, issue a Negative Declaration and make an official referral to the ZBA at the November 9<sup>th</sup> Planning Board meeting. He noted that due to the timing ZBA meetings the applicant should make every effort to submit the variance requests to the ZBA by that Board’s October 19<sup>th</sup> submission deadline.

Chairman Goldberg said that the Board can't take any action on the Negative Declaration and SEQR until the Public Hearing is closed. He further noted the Planning Board can review the application again prior to ruling on the Special Permit or a Special Permit with Conditions, etc. and approving the Site Plan.

Approval of Minutes September 14, 2021 and July 13, 2021

*Chairman Goldberg made a motion to approve the Minutes dated September 14, 2021. Adam Muroski seconded the motion. All were in favor.*

*Chairman Goldberg made a motion to approve the minutes from July 13th. Member Musella seconded the motion.*

The Board discussed whether or not the "Post Meeting Comment" added to the minutes by the Chair and the previous related paragraph Member Pfister should be included or excluded from the approved minutes. Chairman Goldberg indicated he was not aware of any feedback or written communications between the Secretary and Members regarding the July 13<sup>th</sup> minutes and asked if anyone provided the Secretary with comments on those minutes. Member Pfister said, no. Discussion ensued and members indicated they would like to further review the minutes before approving them.

*Chairman Goldberg motioned to again table the approval of the July 13, 2021 minutes until they can be further reviewed by members. Member Pfister seconded the motion. All were in favor.*

Chairman Goldberg then explained that in order to be compliant with the Open Meetings Law (OML) the minutes be placed in the public records clearly marked "Draft."

Mr. Bardavid agreed and explained that no changes can be made to that draft if not approved and that the version presented and marked as "Draft" should be placed on the website.

*Chairman Goldberg made the following motion: In order to be compliant with Section 105 of the Open Meetings Law the Secretary shall we place a clearly marked Draft copy of the July 13th minutes on our website pending further approval. Member Musella seconded the motion.*

Member Pfister stated the tabling was only related to his point about Urban Regulations and the Chair's correction. He asserted that the paragraph in question is not incorrect. The Chair reminded the Board that the points Member Pfister made. referred only to projects subject to the Urban Regulations and were only in reference to Type IV projects and not to the Applicant's property. Therefore, he felt obliged to add the correcting paragraph.

Mr. Bardavid asserted that the minutes are supposed to reflect what took place at the meeting. It's clear what Member Pfister said and it's also clear the Chair, disagreed and that will be reflected in tonight's minutes. The question is whether it's appropriate to strike the paragraphs.

Chairman Goldberg explained that while the correction was needed it would also be acceptable to strike both paragraphs. He explained that the Board should not leave a trail in the minutes indicating there is a precedent that granny apartments are the preferred construction throughout the Village for Auxiliary Structures.

*The motion was repeated with the option to strike the two paragraphs at a later time. All members were in favor.*

## Old Business:

**146 East Main Street:** Chairman Goldberg explained the Board had asked the Applicant to contact them if they had any way to install full-bed fieldstone or stone veneer. He indicated there had been no contact and the installation of brick continued.

Member Musella asserted that he would like to continue discussions on 146 East Main Street in Executive Session. Chairman Goldberg suggested the Board discuss the rest of tonight's old business before going into Executive Session. Mr. Bardavid and the Board all agreed.

**O'Connor's Patio:** Chairman Goldberg indicated he had been working with Attorney Kyle Barnett who had received all the pertinent information in mails from the Chair and the Secretary. He further explained that under Mr. Barnett's direction he had reached out to the current owner of O'Connor's and Mr. Joe Downey and asked them to provide a lease agreement.

He further indicated Mr. Barnett had further informed him that he spoke with the future owner and indicated that a lease agreement is to be included as part of the eventual application at which time it can move forward as typical Site Plan.

The Board had a broad discussion on a variety of issues including:

- If the eventual application would be typical (owing to the patio being on a separate lot)
- If Mr. Barnett should appear before the Board prior to any application
- If the request for a sketch conference constituted a live application and if that request had been officially withdrawn
- If the patio's current operation was permitted by a Covid- related Executive Order
- If there were any legal exposure if the current operation was not subject to a lease agreement.

The discussion concluded with the Chairman reiterating that there was no motion on the table but if the Board concluded at any time to ask Mr. Barnett if the current operation was subject to a lease agreement, he would do so.

**Previous Board Resolution:** Member Pfister asked the Chair if he signed the Resolution to retain Van DeWater & Van DeWater for the Investigation of the Chair. Chairman Goldberg replied, under the advice of his attorney, he is not going to sign that retainer.

Member Pfister asked Mr. Bardavid if the Board could sign it. Mr. Bardavid recommended the entire Board vote on refer it back to the Board of Trustees.

***Member Robert Pfister made a motion to send it to the Board of Trustees to have the retainer signed. Prior to a second a discussion regarding wording of the motion ensued.***

Mr. Bardavid advised the Board to state the motion as "refer the matter to the Board of Trustees for further action." Chairman Goldberg asked clarifying questions regarding whether the referral should be the entire "matter" or simply the "motion" previously made to the Board of Trustees.

Mr. Bardavid indicated, the entire "matter" should go back to the Board of Trustees and the entire matter being the fact that this Board passed a Motion that was later approved by the Board of Trustees. He indicated that the Trustees should not be handcuffed on "motion or matter."

Chairman Goldberg asked Mr. Bardavid how to word the Motion. Mr. Bardavid recommended “referring the matter back to the Board of Trustees for further action if necessary”.

*Member Pfister made a motion to refer the matter back to the Board of Trustees for further action if necessary. Member Musella seconded the motion. The Board voted as follows:*

	Aye	Nay	Abstain
<i>Steve Goldberg, Chairman</i>			x
<i>Adam Muroski</i>	x		
<i>Peter Pennelle</i>	x		
<i>Robert Pfister</i>	x		
<i>Lou Musella</i>	x		

*Charmain Goldberg made a motion to go into Executive Session to discuss 146 East Main Street as well as potential litigation between the State of New York and the Village of Pawling as well as litigation between Steve Goldberg, et al. against Member Louis Musella.*

With no second, Member Pfister asked the Chair to repeat the motion which he did adding that when entering Executive Session to discuss potential litigation it is necessary to indicate what legal matter is being discussed.

With no Second on the Chair’s motion, Member Pfister made the *Motion to go into Executive Session for 146 East Main Street.*

*Chairman Goldberg restated the motion as follows: Motion to go into Executive Session for the purposes of discussing the Approved Site Plan and Variances for 146 East Main Street. Member Muroski seconded the motion. All were in favor.*

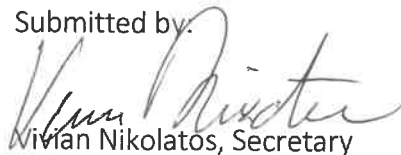
*Chairman Goldberg made a motion to close Executive Session and return to Regular Session. Member Pfister seconded. All were in favor.*

Chairman Goldberg stated there were no motions put forward during the executive session and the Board made no votes.

**Adjournment:**

*Chairman Goldberg made a Motion to adjourn until the next Planning Board Meeting on Tuesday, November 9<sup>th</sup>, 2021. Member Lou Musella seconded the Motion. All were in favor.*

Submitted by:



Vivian Nikolatos, Secretary