

MINUTES OF REGULAR MEETING
FLORIDA PLANNING BOARD
May 28, 2014

I. CALL TO ORDER

Chairman Scott called the meeting to order at 7:30 P.M. with the Pledge of Allegiance

BOARD MEMBERS PRESENT: Cohen, Scott, Kissinger, Sosler, Uszenski

BOARD MEMBERS ABSENT:

ALSO PRESENT: Attorney Kunert, Engineer MacDonald, BI Mateosian

II. MINUTES

A motion was made by Sosler and seconded by Cohen to accept the minutes of the regular meeting of April 23, 2014 as printed.

VOTE: 5 YES 0 NO

Motion Carried

III. CORRESPONDENCE

1. Email –Meeting of All Orange County Chairs—Thursday, May 29th at Orange County Citizens Foundation
2. ZBA agenda for meeting May 12, 2014 and draft of ZBA minutes of meeting March 10, 2014
3. Orange County Partnership Thursday, June 5 @ 8 AM Anthony's Pier 9--\$35 per person
4. The Florida Focus—May issue
5. Letter to Dr. Grealy from M. Sassi of DOT re: Glenmere Preserve roads
6. email—Annual Planning & Zoning Support Staff Workshop, Monday, June 30, 2014—held at 22 Wells Farm Road, Goshen, NY

IV. UNFINISHED BUSINESS

1. Rosenberg PAC-Glenmere Preserve—113-4-2.1, 2.2, and 16—210 units for 55+ older adults

Public Hearing on scoping session closed at 1/27/10 meeting—scoping outline accepted at Feb. 24, 2010 meeting—alternate plan 1C handed out at March regular meeting—DEIS draft submitted to be reviewed by Planning Board

Interim Project Progress Report by Carpenter Environmental Associates has been received.

Public Hearing set for August 25, 2010 at 7:30 PM in the Senior Center

Copies of revised DEIS were submitted to members.

Public Hearing closed 8/25/10

Public has twenty days to submit written comments concerning DEIS—

All members were given copies of the written comments received at this time

Transcript of public hearing meeting minutes sent to all members

Final Environmental Impact Statement disk received and included in work session packet; notebook form also received

FEIS review to be done by Planning Board and accepted/corrected.

Revised FEIS presented for review

PAC zoning amendments reviewed and submitted to Village Board with comments—

Revised FEIS has been prepared and given to all members for review

Site Plan reviewed by fire department—nothing needs to be changed

Jan. 2012 revision of FEIS received—work session packet

Comments regarding FEIS were distributed

Waiting for new site plan

Revised site plan in work session (10/16/12) packet

Public Hearing for site plan and subdivision has been scheduled for January 23, 2013

Preliminary approval for site plan and subdivision granted at January 23, 2013 meeting—six month extension granted at July 24, 2013 meeting—will expire at the Jan. 2014 meeting

Copy of letter from DOT is in work session packet 5/21/13

Village Board meeting 6/12/13 voted to allow Glenmere Preserve to hook up to the Village Sewer System

Letters from DOT and Department of Health received

Preliminary approval was granted a six month extension at the Jan. 29, 2014 meeting. Extension will expire at the regular July 2014 meeting.

Letter to Dr. Grealy from M. Sassi regarding Glenmere Preserve roads

Chairman Scott: the letter does seem to be getting shorter which I think is good news.

Engineer MacDonald: Yes, basically it is stating some additions are needed to the plan.

2. Chelmsford Hills—122-1-1—112 lots for 56 duplex buildings in planned adult community— Prelim approval extension granted to 9/24/08—prelim extended six months to March 25, 2009—preliminary approval extended through 9/23/09— at 9/15/09 meeting six month extension of preliminary approval granted through 3/24/10 –six month extension granted through Sept. 22, 2010—Set of plans for complete project and Phase 1 distributed at March meeting

Received Stormwater Pollution Plan for Chelmsford Hills and copy of Hill-n-Dale Abstracters, Inc. letter insuring title to “gore parcel”

Public Hearing closed May 26, 2010

Final approval with conditions granted at June 23, 2010 meeting

Orange County Dept. of Health—Certificate of Approval of Realty Subdivision Plans --received

Ninety day extension granted through March 23, 2011

Invitation to R. Winglovitz extended to attend meeting

At March 23, 2011 meeting a 180 day extension was granted through Sept. 28, 2011 with conditions granted at June 23, 2010

Letter received 9/20/11 requesting an extension of 180 days. Extension granted through March 28, 2012

New site plan included in work session packet 11/9/11

Applicant contacting fire department—letter received and plan is ok

Letter from R. Winglovitz—copies in work session packet

Revised application received for Jan. 25, 2012 meeting

Waiting for new site plan

Revised site plan and letter in work session packet 6/19/12

Amended subdivision plans 11/27/12 in December packet

Nothing new as of 8/20/13

Letter sent (3/4/14) to applicant requesting status of application

Response received from R. Winglovitz (3/26/14)

3. BASK Auto Detailing—102-3-16—101 C N. Main Street—

Application in packet, ARB form for sign in packet, colored pictures of sign

Approval granted at July 28, 2010 meeting.

Needs a building permit and a C of O. Building permit has been gotten.

Building Inspector to meet with applicant

Applicant may be ending his lease with landlord

4. **Big V Re One, LLC—158 N. Main St.—102-1-4**—renovation of space for retail on first floor—rec'd 2/14/11—copy in last month's work session packet—application and site plan

Drainage Report submitted

Final approval with conditions granted at May 31, 2011 meeting.

Corrected EAF in packet

Revised traffic plan presented by Lanc & Tully—to be signed and stamped when all conditions are met—received and Engineer MacDonald stated they are ready for signing and stamping if cross parking agreement has been submitted and all fees paid

Waiting for cross parking agreement—letter sent Sept. 12, 2013

Chairman Scott sent a letter (3/31/14) to J. Rosenberg and D. Cordisco requesting cross parking agreement

5. **Stauber (Pharmline Inc.) 107-1-4.2** minor subdivision—lot line change

Application and map in Dec. work session packet

Public Hearing set for Wednesday, January 29, 2014

Sub-division approval granted on Jan. 29, 2014—waiting for maps to be signed and stamped

Chairman Scott: Adrian, have you been down there to see them and relay the message that we need their maps to be signed and stamped?

BI Mateosian: I was down there about a month ago but not recently. I believe they have everything ready. Jim Kehoe, who is the one doing this, was on vacation.

6. **Florida Historical Society—13 Bridge Street—107-2-39**

Applicant wishes to create an apartment for a tenant to watch over the property

Letter and partial application in packet (3/18/14)

Tabled until April meeting

Layout of rooms in Green House and

Lot layout of Green property and enlarged lot layout are included in work session packet

New layout of rooms handed out 4/23/14

New application submitted along with plot layout---5/13/14

Present for the applicant were Gary Randall, Kathy Randall, Linda Dubin and Attorney Havens

Chairman Scott: Engineer MacDonald did give us comments regarding this application and we did go over this application at the Work Session so I am asking the Board members if they have any questions at this time.

Cohen: My concern is over the term membership club as I question does it meet the definition of our code?

Attorney Kunert: Let's have the Historical Society's attorney give his interpretation of the membership club.

Attorney Havens: Based on the intended use of a membership club with recreational use and as defined in the Village code 119-34 D relating to Conditional use regulations states that uses are allowed in certain districts as indicated in the Schedule of Use Regulations. The table of District Use Regulations, identifies "Membership clubs, recreational use" as a Conditional Use in zoning district R2, which the property is in. Membership Club is not defined in your definitions but club is. The Historical Society is a non-profit organization. My interpretation is even though membership club is not defined the Historical Society does meet the definition under club.

Cohen: That was the issue. None of us are lawyers except for Attorney Kunert.

Attorney Kunert: As the proposed membership club what activities do you have planned for there?

Attorney Havens: They plan to use the residence as an area for meeting space, office space, storage space and exhibit space for the collections they have. They would also like to have a walking path which would have kiosks and educational markers which would display educational information about the local history. All of this would not have an impact on the property.

Attorney Kunert: Would the walking paths and kiosks be for the public?

Attorney Havens: The paths also could be used by the public as the Historical Society would be a membership club with public objectives.

Attorney Kunert: It is a club already.

Attorney Havens: It is a Historical Society.

Uszenski; I assume as a not for profit organization the Historical Society has a mission statement.

Attorney Havens: Yes, they do have a mission statement.

Cohen: I visited Mt. Vernon and as I walked around the grounds I felt like a guest. There is an organization that runs it. You won't be having any commercial undertakings there.

BI Mateosian: Can you tell me what is the difference between a club and a fraternal organization? What do you think was the purpose in separating the two in the code?

Attorney Havens: There is some overlap in the definitions of the two. CS and GC permit fraternal organizations while R2 does not. The Historical Society not only benefits the members but it also educates the public.

BI Mateosian: As the code enforcer I have a concern over the number of people coming to the club. A large number of people could be a problem for the neighbors living there.

Attorney Kunert: How does the Historical Society differ from a museum?

Attorney Havens: A museum has state regulations. It must have set hours of being open to the public. The collections must meet standards and be cataloged. The Historical Society would have to be chartered by the Board of Regents which would mean they would have to amend their present charter to become a museum.

Attorney Kunert: In the code in RR, RA, RO and MR zones annual membership clubs are allowed under section 119-34 (8).

Attorney Havens: I disagree with Mr. Kunert. That is true but membership clubs are conditional uses in R1 and R2.

Attorney Kunert: That is where we have a discrepancy in the code.

Attorney Haven: I don't disagree with you but my point is membership clubs are allowed in R2 which is where this building is located.

BI Mateosian: So are you saying in this instance there are no conditions for the approval?

Attorney Havens: I'm saying there are no additional conditions for this use.

BI Mateosian: Down the road how do we regulate this organization if it seems to be getting out of hand? As the code enforcer I need a specific set of rules to govern this and are you saying this Planning Board should set those rules.

Attorney Havens: As the code enforcer if you have concerns about this application and organization then you should express that to this Board.

BI Mateosian: The only other thing I had on my agenda was about the energy code where you state in your cover letter you state the Energy Code is not applicable. It does apply when there is a change of use and certainly this is a change of use. You had a residential use and now this is an membership club which will be open to the public at various times. This will bring certain codes into play. Once I am told how you are using the building then I will determine the code. For an assembly building it becomes a commercial use and that kicks in the energy requirements and other requirements.

Uszenski; I did read Engineer MacDonald's comments and I did some research. If you look where there are conditional uses listed under each area there are different uses. In our original code book I found that conditional uses in R1 moved over to conditional uses in R2. It looks like there is a mistake in the code book and either the Village Board fixes it or you go to the ZBA for a variance. Am I wrong?

Attorney Kunert: No, there is a conflict in the code.

Attorney Havens: I don't disagree with what you are saying. The code is of poor drafting. However, I do think the Board if they think this fits the code and the given circumstances they could go ahead with the approval.

Uszenski: I know the Planning Board doesn't have the authority to overrule the code book. I think the ZBA would be the one to do that.

Chairman Scott: I don't think the ZBA is the proper venue either.

Attorney Kunert: Another request the Historical Society made is they would like the Planning Board to waive the need of a survey. The Planning Board needs to make a decision on this request.

Attorney Havens: There are 14 acres of property and this would be a financial burden to the Historical Society to pay for this survey since they will not be building anything new.

BI Mateosian: I think that is an overstatement since you are talking about putting trails and kiosks along the property and I can foresee conflicts with neighbors bordering this property. There are at least 20 properties bordering this piece of property.

Engineer MacDonald: On another note on the short EAF #9 about energy code the applicant checked off yes that they meet the code. Is the applicant required to meet the new energy code because that could prove to be a financial burden also.

BI Mateosian: A major question is what will be the occupancy of this building? A higher occupancy would kick in several new codes such as fire, energy etc. What is needed is a more specific plan of use and then that question could be answered. Since they have mentioned walking trails etc., then the public is going to be present so codes are going to be needed to be met.

Engineer MacDonald: Even so all that being said the applicant needs to know if they need to meet the new energy code as it could be a large sum of money involved.

BI Mateosian: An architect could determine that. The bedroom is no longer a bedroom but is being used for something else and the public is involved. There would need to be an alarm system installed etc.

Uszenski: My question is are we considering setting a Public Hearing or do we need additional information?

Attorney Kunert: What is the applicant's position?

Attorney Havens: I think the Planning Board has the ability to set a date for the Public Hearing. I'm concerned about the need for a survey since we don't have one. Would we need to get one, it would take time.

Sosler: Isn't there an old survey available?

Attorney Havens: The property has been held by the Green family since the 1840's so there isn't a recent survey.

Chairman Scott: I want the applicant to know there is an expense of the Public Hearing. The neighbors within three hundred feet need to be notified so there is the cost of the mailing. There is also the cost of the legal notice.

Engineer MacDonald: So for the voting members of the Board there are two questions (1) is the Board ready for a Public Hearing and (2) is a survey required for a Public Hearing? Two members of the Board are recused.

Uszenski: I'm still concerned about the conflict in the code book.

Attorney Kunert: You can still go ahead with the Public Hearing even if you feel there is a conflict in the code book.

Chairman Scott: In our code is a survey required for a Public Hearing?

Attorney Kunert: Yes, a survey is required.

Cohen: I can see where we could overlook the need for a survey considering the size of the property and the hardship it would place on the applicant.

Engineer MacDonald: Well the site plan of the 14 acres needs to show parking, walking trails, kiosks etc. so the public knows what to expect there.

Uszenski: The applicant doesn't have a developed site plan so maybe we aren't ready.

Chairman Scott: At this time I am going to poll the voting members on the two questions we have: 1) Is this application ready for a Public Hearing?

Sosler: Yes

Uszenski: Yes, but I have reservations based on the code conflict.

Cohen: Yes.

Chairman Scott: Question 2) Do you feel a survey of the property is necessary for the Public Hearing?

Sosler: No

Uszenski: No

Cohen: No, as long as the site plan is developed.

Chairman Scott: With that done I need a motion to set a Public Hearing.

Attorney Havens: I suggest the Planning Board hold off on setting a date for the Public Hearing until the applicant gets the proper site plan in place.

Chairman Scott: Okay, we will wait until the site plan is developed and presented to the secretary. Could the secretary tell the applicant when the material is needed to be placed on the June agenda?

Secretary: The material needs to be in by noon on Tuesday, June 10th. The work session will be held on Tuesday, June 17th and the regular meeting on Wednesday, June 25th.

Chairman Scott: We will wait for your submission of the site plan before any further action will take place.

V. NEW BUSINESS

NONE

VI. INACTIVE APPLICATIONS

1. SBJS PARTNERSHIP—111-2-16—10 lot subdivision—Highview Extension--haven't received anything—copy of letter from DEC in 10/20/09 packet

2. Robert Cannillo—96 Glenmere Ave.—109-2-6—4 lot subdivision—nothing received

3. Excel Physical Performance, Inc. ---105-1-17—38 N. Main St.—

Needs to have ARB approval for sign. Letter was sent to applicant and nothing has been submitted.

VII. DISCUSSION

Chairman Scott: We had a letter from the Mayor and Village Board of Trustees requesting our input regarding the consideration of amending Chapter 119, Zoning, "119-4 Schedule of Regulations". This is to remove the rear yard requirement for properties located in the RO, CS and GC districts when they are within 25 feet of a residence boundary line. We discussed this at the Work Session last week and it was my opinion that accessory buildings should not be higher than 15' and not closer than 5' to the property line. This allows space for maintenance of the accessory building.

Uszenski: I was not here last week but I disagree with that. I think the regulation should be left as it is written now.

BI Mateosian: I think it should be any building not just accessory buildings that would be no closer than 5' to the property line and not more than 15' in height.

Chairman Scott: It is also my opinion that any existing building located in this area now would be allowed to do whatever is permitted in CS even if the building is more than 15' in height and closer than 5' to the property line. So at this time I would like to poll the members and get their opinion: The question is do you agree or disagree with the 5' setback from the property line and no new construction higher than 15'?

Kissinger Agree—

Cohen Agree

Uszenski Disagree—If I were the resident living there, I wouldn't want them to come within 5' of my property line. I would want to keep as much of the backyard as possible. What new construction other than an accessory building will be only 15' high? Where do you measure the 15' from? I say leave it as it is presently.

Sosler Agree

Scott Agree

Kissinger: I change my mind to **disagree** after hearing Uszenski's reason.

Chairman Scott: Since we cannot come to an agreement on this, I will not send a letter back to the Village Board.

VIII. ADJOURNMENT

A motion was made by Cohen and seconded by Uszenski to adjourn at 9:37 P.M.

VOTE: 5 YES 0 NO

Motion Carried

Respectfully submitted,

Shirley Coughlin, Secretary