

North Salem Planning Board Minutes

May 19, 2010

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Robert Tompkins, Board Member
 Bernard Sweeney, Board Member
 Gary Jacobi, Board Member
 Sonja Teichmann, Planning Consultant

ABSENT: **Roland A. Baroni, Town Attorney - not required to attend**
 Charlotte Harris, Board Member

Chairwoman Cynthia Curtis calls the May 19, 2010 North Salem Planning Board Meeting to order.

WORK SESSION:

1. Proposed Zoning Code Revisions:

- Special Permit Uses – Outside Dining

There is discussion about Croton Creek Steakhouse and Wine Bar going before the Zoning Board of Appeals (ZBA) to appeal the decision of the Building Inspector. The Board is not sure if that has taken place, or the outcome.

Cynthia refers to the Draft Local Law prepared by MDRA for review tonight regarding Special Permit Uses for outdoor dining. Cynthia states that the Board will be amending the Law for the future. There are two General Business (GB) sites. Cynthia refers to the proposed Marriott Hotel site. Cynthia refers to Page 1 of the Draft and states it shows an Amendment to the Table of General Use Requirements. Column D for the GB District will be amended so that outdoor dining, per Town Board request, would be a Use by Special Permit of the ZBA. There is a discussion about the Planning Board making a recommendation as to which Board would be making the decision. Gary states that the path of least resistance would be for individuals to go to the Town Board. Cynthia states that the bulk requirements will stay the same.

There is a discussion about the parking, and addition of accessory seasonal outdoor restaurant seating requirements listed on Page 2 for both the GB and Planned Development (PD) Districts. Gary asks why the Board is considering this amendment to both the GB and PD Districts. Cynthia states those are the only Districts that allow restaurants. Cynthia states one more district, the PD-CCRC district has to be added. Gary asks why not amend the Law for the District where the Steakhouse is located. Gary asks why the Board is making the regulation broader. Cynthia asks why not? Cynthia asks Gary if he likes the idea of outside dining. Gary states he feels the Board is moving forward with this very quickly. Gary is fine with the change, he just wanted to understand why the Board was expanding the purpose. There is discussion about this change being expedited by the Town Board. There is a discussion about spot zoning. Cynthia states that if outdoor dining is allowed in one district, why not allow it in another district. Gary would like to know what the words limited and seasonal refer to. Sonja states that seasonal would refer to the summer. Gary states that someone may want to sit outside in October. Robert states that if it is seasonal, there may be a 90 degree night and someone may want to sit outside. Gary questions the use of the word limited and asks why it is used in the Draft. Cynthia states the use of the word limited implies a requirement of a headcount whether dining inside or outside. There is a discussion of possibly allowing outdoor dining all year round. Robert does not feel the Board is defining when someone may sit outside. Cynthia states that limited means that an

establishment may not put out 10 tables one day and 110 tables on another day. Gary states that the maximum outdoor floor area requirements are listed on Page 4. Sonja states that would be the purpose and intent which generally states the amendment is limited and seasonal. Details are listed further down in the Draft. Gary refers to D(1) on Page 3 and asks what we mean by the word accessory. Cynthia states an accessory would refer to the outside use for a restaurant.

Robert states that if he remembers correctly, Croton Creek did not own the property where they want to locate their outside dining. There is discussion about DEP owning the piece of property. A legal license with the DEP is discussed with an annual renewal. Gary refers to Page 3 and would like to know what the use of the word principal means. Sonja gives the Steakhouse as an example and states that the residence would be a principal building, and the restaurant would be an accessory. Gary has a problem with the word principal. Sonja states it indicates that there has to be a restaurant in place as a principal use of the site. Gary states that Croton Creek is a small restaurant in a big building. Cynthia states that there could be more than one principal use in a building. Gary has no idea what the term principal restaurant refers to. He understands the term principal building. There is discussion about changing the language from principal to authorized. There is discussion about outdoor dining being located directly adjacent to the building. Gary states that he agrees with that requirement, as we don't want outdoor dining to be located several feet away.

Cynthia refers to Page 4 which talks about the Americans with Disabilities Act (ADA). Gary states that the language in E(4) on Page 4 is meaningless to him. Gary states that he is fine with the language in F(1) and (2) on Page 4. He does not understand F(3). Sonja states that minimum yard areas would refer to the setbacks such as the side yard and rear yard. Gary asks what would not be allowed in the setback areas. Sonja states the outdoor seating area facilities may not be located in the setback areas. The language will be changed. Gary asks if F(4) on Page 4 should be taken out. Cynthia feels it should be left in, as sometimes people install patios on top of an existing septic. Referring to Page 4, G is discussed in terms of limiting the maximum outdoor floor area to or less than 25% of the total gross floor area.

Referring to Page 5, L is discussed in terms of outdoor music being prohibited. Allowing music up to a certain amount of decibels is discussed. Primavera and Vox are discussed in terms of outdoor music and neighbors. Gary states there is no way to stop the music from leaving a property. Limiting outdoor music for occasional events or nights is discussed. Allowing for background music is discussed.

Gary asks how long the permit will be good for. Cynthia states a permit would be good for a year. Gary does not see that language in the Draft. Sonja refers to Page 5 N which states an annual renewal would be required. Gary states the language does not list how long the permit would be good for. Sonja states an annual renewal is listed, so that after a year the permit would be required to be renewed. Gary states that language should be added so individuals know the permit is good for one year.

2. Stormwater Law:

- Consider Code Amendment Regarding Phosphorus Reduction Policy

Cynthia states that we have the memo that Hahn put together, as well as suggestions/comments from MDRA regarding the proposed Phosphorus Compliance Regulation. Robert states that the documents look good to him. Robert states that he has personally been dealing with this subject. Robert states that he read 40 pages regarding stormwater prevention only to find out that the document expired April 30, 2010. Robert asks what supersedes that document. Cynthia refers to the Hahn Memo dated April 30, 2010 and states the first bullet speaks to the fact that although we have four different reservoirs in Town, the 19% phosphorus reduction requirement was chosen to be used throughout the Town to simplify implementation of the way the Planning Board handles the stormwater. Robert asks how this would affect the different zoning areas such as R-2 and

R-4. Cynthia states the 19% is for individuals near a tributary basin, Croton Watershed, or Peach Lake. The City requires individuals to comply with the requirements. Cynthia states for a comparison, if an individual required a DEP Permit, that would require an 80% reduction. The Peach Lake Sewer District has to achieve 80% reduction in phosphorus. The new pump station on the Peach Lake Commons site will require an 80% reduction. Cynthia talks about the Applicant speaking with the DEP to see if the pump station could be made a part of the Peach Lake Commons Site Plan so it would not have the requirement. Robert asks what the threshold is at this point. Cynthia states that is what we are working towards establishing.

Cynthia talks about someone doing a two lot subdivision, possibly receiving a pass of the requirement unless the proposed disturbance envelope exceeds 50% of the area of the property. Robert states that everyone would have to deal with the SWPPP. There is discussion about no one being exempt from the SWPPP. Robert states this is a way to enrich the engineers. Cynthia refers to the second bullet in the Hahn Memo which has to do with impervious surfaces and additional requirements that would apply only to projects with at least one acre of land disturbance. There is discussion about someone cutting down trees to plant a lawn. Cynthia states that we cannot rewrite the Stormwater Code. Robert talks about the rules for the individual landowner, as well as town and state highway departments. Cynthia states she gave a presentation at a Town Board Meeting last week. There are millions of dollars being spent by all of the Towns in Northern Westchester. Cynthia mentions that the towns are seeking the DEP East of Hudson Funds that are sitting with the County to help fund these stormwater retrofits.

There is a discussion about runoff in Town. Gary does not see any problem with the Hahn Memo. Robert states he is more concerned with the acreage requirement. Gary does not see a problem with the wording in the MDRA comments of May 18, 2010 regarding the R-4 and R-2 Districts. Cynthia refers to the fourth bullet where it states that these additional requirements would apply to commercial site plans only where there is an increase in impervious area from the existing condition. Sonja states that one of their comments had to do with a site that may be completely remodeled and redeveloped. The question is would this not be the ideal time to bring the overall development into compliance. The Board states no. Cynthia refers to the fifth bullet where it states these additional requirements would apply to residential property development as follows, such as minor subdivisions being exempt unless the proposed disturbance envelope exceeds 50% of the area of the property, and major subdivisions would not be exempt. Sonja states that one of their comments was to call this “residential property exemptions”. Cynthia finishes the fifth bullet where it states that existing single family lots would be exempt unless more than one acre of new impervious area is created. The lifetime maximum restrictions are discussed. The Board does not like the language “life-time maximum”. They agree with the language in Frank’s Memo under the fifth bullet.

3. Zoning Map:

Robert asks what is happening with the Comprehensive Plan as it relates to Field’s Lane. Cynthia states nothing specific. The Comprehensive Plan had been forwarded to the Town Board for adoption.

Cynthia states that Paul Gisondo from Westchester County GIS is working on the Town’s Zoning Map. Sam Wear also from Westchester County GIS will be coming in on June 23rd for the GIS Session. Cynthia met with Maureen and Bruce and found a few minor corrections that need to be made. The zoning district line along Croton Creek Steakhouse is discussed down by Back Street.

4. Next Meetings:

- Regular Meeting – June 2, 2010

- Work Session – June 16, 2010

5. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.