

**Village of Brewster
Planning Board
November 29, 2011**

Regular Meeting

Board Members in Attendance:

David Kulo, Chairman
Mark Anderson
Renee Diaz
Tyler Murello

Board Members Not in Attendance:

Rick Stockburger, Assistant Chairman

Also in Attendance:

Gregory Folchetti-Planning Board Attorney
Bruce Martin- JRFA, Village Engineer
Michael Liguori, Esq., Hogan & Rossi
Joseph Szilagyi-Building Inspector
Enid Peraza-OM Architects

The **Pledge of Allegiance** was recited.

[Whereupon the proceedings were called to order at 7:32 p.m.]

Public Hearing

571 North Main Street-Fountain of Faith Church-Site Plan

Chairman Kulo stated that the first order of business concerned the public hearing for 571 North Main Street. He asked Mr. Liguori

to please address the Members of the Planning Board concerning this matter. Mr. Liguori thanked the Chairman and noted that a variance had been granted by the Village of Brewster Zoning Board of Appeals, which variance was conditioned on the parking table that had been presented to the Planning Board. Mr. Liguori stated that a revised site plan was being presented to the Planning Board; as to fire lane markings he noted that they had been unable to ascertain the parameters thereof because of the lack of dimensions in the Code but had noted that they would work with the building inspector to determine what was requisite and incorporate this into a final site plan. Mr. Liguori stated that this is what he wanted to say, at which juncture the Chairman noted that no decision would be made this evening and further indicated it was rather to afford the public the chance to offer any comments they had. No member of the public opted to avail himself or herself of this opportunity. Chairman Kulo then made a motion to close the public hearing, which motion was seconded and passed by a vote of 4-0.

Call to Order

Chairman Kulo made a motion to open the regular Meeting of the Village of Brewster Planning Board. He noted that this Meeting was originally scheduled for November 22, 2011 but rescheduled to this night, November 29, 2011. The motion was seconded by Ms. Diaz and passed by a vote of 4-0. Chairman Kulo indicated that this was the regular Meeting of the Village of Brewster Planning Board. Chairman Kulo noted that Board Members Mark Anderson, Renee Diaz and Tyler Murello were in attendance along with himself. The Chairman noted that a date would be set for the SEQRA hearing concerning 571 North Main Street. There was discussion whether this was a Type Two under SEQRA, which involves expansion or construction of a primary or secondary use apartment or non-residential use or facility involving less than 4,000 square feet of gross floor area not involving a change in zoning or use variance consistent with local land use controls. Mr. Anderson noted that a variance for parking would not be a use variance; Mr. Folchetti stated that it is an area variance. Mr. Liguori stated that 571 North Main Street was about 8,500 square feet. Mr. Folchetti opined that the statutory 4,000 square feet could be read as either meaning the building itself or the

construction or expansion thereof. Mr. Liguori offered that he did not want to muddy the waters in this regard. Mr. Liguori also noted that this matter had been adjourned five weeks earlier to this date to allow sufficient time for the 30 days required under SEQRA and that he was disappointed that he would have to return yet again after another 30 days. Chairman Kulo indicated that sometimes, despite best efforts, these things unfortunately happen. Chairman Kulo thought that this would be a good time to discuss a date for the next Meeting, which, due to the impending holidays, would be in either mid-December or early January. Mr. Anderson inquired as to when the needed 30 day period would be tolled. After discussion, and in order to accommodate the Applicant, and predicated upon everyone's professed availability, the next Meeting of the Planning Board was set for December 27, 2011. Chairman Kulo stated that he would endeavor to do his best to ensure that all was in order for this next Meeting and expressed his hope that a decision could be rendered then. Mr. Liguori thanked the Chairman for his efforts, past and future, and departed the Meeting.

New Business

151 Main Street

Chairman Kulo stated that he had received an e-mail from Joe Hernandez concerning the front of 151 Main Street being used as a parking lot despite the fact that there is no permit allowing such use. The Chairman indicated that there was someone present to discuss the matter and invited her to speak to the Board Members. She stated that her name was Enid Peraza and that she does architectural work for OM Architects. She stated that the owner, Tom Maiorano, wants to be in compliance but that when he bought the building in 1998 the prior owners gave him a survey that showed a parking lot there. Mr. Folchetti stated that if no building permit was issued a site plan approval, if it had been obtained herein, would have expired. Mr. Szilagyi noted that even though the surveyor in 1992 had put down the property's condition that did not mean that there had been site plan approval by the Village. Chairman Kulo stated that the first thing that had to be ascertained was whether it was legally a parking lot or not, as that is where the Planning Board would begin its inquiry. Mr.

Folchetti stated that in the 40+ years that he has lived in Brewster on and off that he has never seen grass in the area in question, a notion seconded by Mr. Anderson, who noted that the property had been office space. It was stated that it was the owner's objective to try to improve the property, as nothing had been done on it for a protracted period, since the property has a huge impact on how residents and others perceive the Village. Mr. Folchetti noted that the Board's job was solely to determine if there was a violation or not.

Ms. Peraza stated that Mr. Maiorano had received two summonses for site plan violations. Mr. Anderson wondered, given the number of older buildings in the Village that predated zoning, at what point would they ever get a site plan. Mr. Folchetti stated that under the Code such a building would have to get a site plan if there was a change to a preexisting nonconforming use or if that use was abandoned or for something done with the authority of the Planning Board. Mr. Folchetti also noted that if it was a parking lot and the owner wanted to pave it he would not go to the Planning Board for such purpose. Mr. Folchetti also suggested that Mr. Maiorano and Ms. Peraza should talk to the prosecutor in advance of the January 30, 2012 court date, as it was his experience that most prosecutions of this nature are meant to ensure compliance with the zoning code and to have a better appearance; if it was determined that a site plan approval was requisite then the matter would have to go to the Planning Board. Mr. Anderson offered that there was indeed a desire to beautify the Village and that there had been considerable investment in government things for instance in furtherance of this purpose-he cited the train station as one example thereof. Mr. Szilagyi stated that he had to endeavor to get property owners to come into compliance, as they were not internally motivated to do so. Mr. Anderson opined that each incremental improvement to a property benefited everybody. Mr. Szilagyi stated that improving this property would be a watershed as its current condition could be used as an excuse by other property owners' recalcitrance to make positive changes.

Ms. Peraza noted that she understood Mr. Folchetti's suggestion that she try to conference the matter with the prosecutor and indicated further that she hoped to avoid a long site plan approval process. Mr. Szilagyi offered that there were many things that could be done on the property without any further ado at all and without a

huge investment. Mr. Szilagyi reiterated that from his perspective the parking on the property was not preexisting to the enactment of the zoning code in 1967. Mr. Anderson suggested talking to the surveyor to see if a survey that preexisted that date could be found. Mr. Folchetti noted that if enforcement and the owner could not agree resort to the Zoning Board of Appeals for an interpretation that this particular use is a permitted preexisting nonconforming use or a legal nonconforming use could always be had, and that such a request is supported, for example, by affidavits of people who are familiar with the use of the property over time. Mr. Szilagyi stated that he would want there to be some type of benchmark in those affidavits. Mr. Szilagyi stated that Barbara Jewell remembers that in 1965 there were shrubs at the property. Mr. Folchetti indicated that the Zoning Board of Appeals bases its determinations on substantial evidence and that if someone pays the requisite fee that the Zoning Board of Appeals is compelled to make a determination. Mr. Folchetti added that he hoped matters could be resolved to everyone's satisfaction at court. Ms. Peraza then thanked the Board for its time and departed the Meeting.

Accept Outstanding Draft Minutes of October 25, 2011

Chairman Kulo stated that the next item of business was the Minutes of October 25, 2011. Mr. Anderson made a motion to accept the Minutes of October 25, 2011. Mr. Murello seconded the motion, which was passed by a vote of 4-0.

Close Meeting

The Chairman asked if there was anything else that any Member cared to raise, to which question the Members responded in the negative. Mr. Murello made a motion to close the Meeting, which was seconded by Ms. Diaz and passed by a vote of 4-0.

[Whereupon the Meeting was closed at 8:13 p.m.]

