

**Village of Brewster
Planning Board Meeting Minutes
May 29, 2018**

BOARD MEMBERS IN ATTENDANCE:

Rick Lowell, Chairman
Janet Ward
Marti Foster

BOARD MEMBERS NOT IN ATTENDANCE:

Rick Stockburger
David Kulo

ALSO IN ATTENDANCE:

Mr. Todd Atkinson, PE
Gregory Folchetti, Attorney - Costello & Folchetti (arrived later in meeting)

Chairman Lowell led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

Chairman Lowell named Boardmember Marti Foster as Interim Vice Chairman.

REGULAR MEETING:

Boardmember Foster made a motion to open the regular meeting. This was seconded by Boardmember Ward and passed unanimously.

Dominos Pizza, 571 North Main Street:

Michael Liguori, Attorney at Hogan & Rossi appeared before the Board representing Ms. Buhan who is the owner and proprietor of the Dominos Pizza. Also in attendance is Bill Taylor who is from Dominos, Jerry from Construction 6 who is the builder, and Johnny, realtor. He said he was retained to assist in the Municipal process for the purposes of having permits issued for the Dominos Pizza. He said that a permit was submitted to the Building Department for the Use. They are not referred to the Planning Board for Site Plan Approval, he said, but were asked to come to the Planning Board so I wasn't sure what the appropriate process would be applied so I applied for a Waiver of Site Plan Approval. Mr. Liguori said if there were issues that the Planning Board had that they needed to take back to the Building Inspector and resolve then we would. Chairman Lowell said without Mr. Folchetti, our Attorney, here tonight I'm reluctant to take any kind of final actions without his advice so I think tonight we will hear what you have to say and if there are any particular issues that you can think of or that we can think of we'll talk through them a little bit. Mr. Liguori said did he raise any issues in advance? Chairman Lowell said he didn't raise any issues with me. Mr. Liguori said I was just curious because we have a fairly significant time constraint with Dominos so every month that goes by is an extra franchise fee to the franchise that we'd like to avoid particularly when we are in a catch 22 situation where the Building Inspector hasn't said you need a Site Plan Approval but just asked us to come here. Chairman

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Lowell said well that's why we have this time. Mr. Liguori said we appreciate your having this special meeting.

Mr. Liguori gave an overview of the location and the proposed Use that he crafted and had submitted to the Board. He said there is a small Zoning review as it relates to parking because to me that was really the only issue that I thought of separate and apart from aesthetics that I think the Board would comments on. He said it is located at 162 Main Street and is 5250 sq. ft. and consists of two commercial tenant spaces on the first floor and two apartments on the second floor. He said he laid out an analysis of the parking per the Uses: presently with the current configuration, not contemplating any use of the non-Dominos area of the building we need six parking spaces and we have eight. He said the picture on the left and right shows exactly what's out there. He said the garbage enclosure would be repaired and fixed. The parking stalls are on an angle, he said. Mr. Liguori said the Dominos Pizza Use is proposed for 1400 sq. ft. of the first floor to the right, which was previously The Bowl Company. He said this is a four seat restaurant and not intended for people to actually eat there. Mr. Liguori said the restaurant is looking at 70% pickup and 30% delivery. He said Ms. Buhan owns the Dominos in Carmel so we have really good numbers as far as what to expect for here. Garbage is picked up as needed, he said, so it could be three days a week, it could be five but that will depend on volume. There is basically one sink on the interior for clean up, he said, so you have your pizza kitchen, your patron area, but one wash sink. The building is already on the Village Water and sewer, he said, and we don't anticipate any issues with volume coming out of the building as far as the pizza making use. Boardmember Foster said when you say one wash sink do you mean a sink for washing as well as washing dishes? Mr. Liguori said there is a bathroom sink and one commercial sink area for kitchen cleanup.

Mr. Liguori said the Use is anticipated to have three deliveries per week and they will be on off hours so as to not interfere with the Use. Boardmember Ward said define off hours. Mr. Liguori said Dominos serves lunch and dinner so it will not be open during breakfast. Ms. Buhan said they will be open from 10:00 in the morning to 1:00 in the morning Sunday through Thursday and Friday and Saturday until 2:00 in the morning. Boardmember Ward said so the off hours would be from... Ms. Buhan said from 1:00 in the morning until 10:00 am between that time. Boardmember Ward said in the middle of the night. Ms. Buhan said yes. Mr. Liguori said we wouldn't interfere with the business operation and I am sure we could probably schedule deliveries so if it is more convenient to have them between 8 and 10 or 7 and 10 or 6 and 10 as opposed to 2 in the morning to 6 in the morning. He said we are going to facilitate the most efficient use of the property for us. Boardmember Foster said I think I read that your delivery is going to be from a tractor trailer, is that like a 40 ft. trailer? Mr. Liguori said it would be a full size tractor trailer. Boardmember Foster said where are you going to park it during delivery. Mr. Liguori said we would use the front spaces if their available but frankly we're on Main Street so we're going to do what everybody else does, which is one of two things: we'll get our deliveries on the street with a large vehicle and if that proves to not be possible they'll have to get deliveries on a smaller truck.

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Chairman Lowell said are you buying the property. Ms. Buhan said we already did. Chairman Lowell said so the tenants will remain there and Ms. Buhan said yes. Chairman Lowell said they are entitled to three spaces and you say you have eight so you have five left. Mr. Liguori said that's right. Chairman Lowell said you want to park a truck on the street. Mr. Liguori said if we have to for a delivery; we don't really have any other options. Chairman Lowell said if you're coming at 2 in the morning I would imagine the tenants are going to be in those spaces. Chairman Lowell asked about who would accept the deliveries and Ms. Buhan said they will have a key code so I don't have to be there. Boardmember Foster said having a tractor trailer double parked there is not safe, it's a very bad area from a traffic perspective with a blind, very steep turn and Marvin Avenue coming up the hill that is steep and adding a tractor trailer to that at any time could be dangerous. Mr. Liguori said understand, we are going to make what needs to happen function, that's just the reality, but we're in the Village and this is a problem that occurs with business owners that are on Main Street in the Village. He said I can say it's not going to be like Brewster Honda where the car carrier pulls in front of the dealership and unloads right there; it's not that volume or timing. Boardmember Foster said but you are in one of the worst traffic spots in the Village.

This is a problem that occurs with business owners that are on Main Street. He said it's not going to be what used to happen with Brewster Honda where the car carrier pulls in front of the dealership and unloads right there. It's not that volume and timing that... Boardmember Foster said but you're in a very bad spot that's probably one of the worst traffic spots in the Village. Mr. Liguori said well there's nothing... look I understand the point; there really isn't anything we're going to be able to do about it other than facilitate a smaller truck if that's what's going to have to happen. He said we're going to need to have deliveries, there's no question about it. Bill Taylor said to Michael's (Liguori) point, we do have the ability to request smaller trucks if need be. Boardmember Ward said in looking at the location of the building and being familiar with the traffic pattern that was a question that came up. She said with the parking spaces you are required to have six; you have three for the tenants and then you said you had two or three employees so if two employees are using the spaces then you only really have one or maybe two spaces for customers and it's 70% pickup so you're going to have people driving in and out. Mr. Liguori said yes that's right, we'll have people coming in and out. He said so the reality of the situation is that this parking and the Use is most likely going to get absorbed into Main Street of the Village like many of the other businesses do so we're attempting to try to locate offsite parking like other people do within 500 ft. We went to Steve Presbi which is the auto repair place before the gas station, he said, to see if he will give some spaces but he doesn't have any available at this time so we're trying to find a solution. Mr. Liguori said what's likely going to happen is his Use ends after 6 pm and I think people will just park in front of his place and walk into ours to the extent that

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they could not otherwise. During the day, he said, we have a classic situation where the tenants will either be home or not be home so those spaces will be available as they come and go but people find parking as they need to facilitate the use. He said he thinks that if parking becomes that big of an issue then people will just request delivery because it's available. Chairman Lowell said either way you're talking about a heck of a lot more activity coming in and out of that building than there ever was before and that is one of the worst intersections you've ever seen for visibility. He said someone coming from Oak wanting to go East has to come past a blind entrance onto that street and if there is anything parked in front of that building you can't see it. Mr. Liguori said understood but that's where we own to and that's where our parking is. He said it's really a testament to Oak Street; it really shouldn't be two ways, it should be one way in the opposite direction. Chairman Lowell said agreed it should be restriped or something to make it a better intersection or moved but those aren't going to happen before this happens. Mr. Liguori said understood but this isn't unique to... as far as we're concerned yeah are we going to intensify the use; there's a possibility. He said if you go back and looked at all of the prior tenants that may have existed there then I think we could do a comparative analysis but at the end... Boardmember Ward said when the ice cream shop was on the left hand side, trying to get to the ice cream shop was challenging safety wise from driving so it's a concern.

Mr. Atkinson said Mike (Liguori) you brought up 1/500 for restaurants; the Code is actually 1/150. Boardmember Ward said no, I thought it was the B3 because it says 1/150 here but then down in 16 B parking requirement for certain uses in B3 District lessens it to 1/500. She said retail restaurant, tavern or similar to one space for each 500 sq. ft. of gross floor area.

Boardmember Ward said for the garbage disposal it will be the area where the white fence is; will it have a dumpster? Mr. Liguori said it has a dumpster already and it will continue to have it and it's enough space for what is needed. Boardmember Ward said it looks like it's 4 ft. 8 in. in width from the building to the property line.

Boardmember Wards said walk-in traffic: again it is a dangerous intersection for walking but there is no sidewalk on either side of Oak Street so when you're going up and down you always have to look for someone.

Chairman Lowell said is there any way that you could do like a pickup window where people could drive up perpendicular to the building for pickup and then drive out continuing west. Mr. Atkinson said that would not be possible. Boardmember Ward said the real solution is getting three parking spaces on the side so people could pull in that way. Mr. Liguori said yeah but we don' own... look it's Main Street in the Village, no

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one has parking, it's just the reality of the Village, it is what it is. He said that's the only way we're going to be able to use this building as it's constructed, which is commercial on the first floor and residential on the top two.

Mr. Atkinson said what was the Use in the Dominos section before. Mr. Liguori said there have been a few places: a law office, a hardwood floor distributor, and before that... I can go back to about 2002. Boardmember Ward said the gelato and The Bowl Company you entered from the left hand door. Dominos is actually better, she said, it's farther back from Oak Street so that's definitely an improvement.

Mr. Kahn said we talked to John across the street that owns the deli and if the employees could park across the street, he said that it wouldn't have an impact. Ms. Buhan said no one wants to give us in writing but I don't have any problem with parking at the gas station or around the block. Mr. Kahn said when I facilitated this deal I went to Bill (Scorca, Building Inspector) and made sure that we wouldn't have to be here, he told me we wouldn't have to be here, she purchased the building, and here we are. Boardmember Ward said I understand but in looking through the Planning Chapter it looked like it did need to have Site Plan Approval. Mr. Liguori said it's not for you guys to determine, it's only for the Building Inspector to determine. He said I'll just tell you being the Attorney for four different Municipalities, the Planning Board doesn't interpret your Code, the Building Inspector interprets the Code. The problem we had was as far as I'm concerned, he said, was for the Building Inspector to say to us you need Site Plan Approval or you don't need Site Plan Approval. He said putting us in limbo doesn't help us, it's costing us money. We came to you first, he said, and it was 'no Site Plan Approval is required' and then to come back later when we go to apply for Permits 'well I'd really like the Planning Board to take a look at this thing.' Mr. Liguori said are you sending us for Site Plan Approval and the Building Inspector said no so my reaction as an attorney as the best way to get my client from A to B is to come ask you for a Waiver, to me that is the legal remedy because you can't determine whether Site Plan Approval is required, only the Building Inspector can do it.

Boardmember Ward said Rick (Lowell), in 182-1(i) it says referral to other agencies: it's on a State road so does it have to go to the State DOT (Department of Transportation). Mr. Liguori said only if Site Plan Approval is required. Boardmember Ward said so that puts us right back where we were. She said we've heard what you said, we've asked our questions and it sounds like we have to go back to the Building Inspector. Chairman Lowell said we would also need to speak with our Attorney and we will be meeting again in two weeks so it will not be another month and I think at that time we will be able to move on it. Mr. Atkinson said even if you decide that Site Plan is not required here, it doesn't prevent the DOT from also coming in themselves. He said

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once you get set up in there they can come back and say 'hold on a second, it's not going to work' especially seeing how much property is actually theirs that you are using for parking because there is only a 4 or 5 ft. setback off this building in most areas and the rest of it is all DOT Right-Of-Way.

Mr. Liguori said what sets this apart from the ice cream place; did they come for Site Plan Approval? They had the same parking issue, he said, they didn't even go for Site Plan Approval. Boardmember Foster said in my educated opinion I would say that Dominos will have a significantly higher volume than the gelato place did and that's proven because the gelato place didn't last. Mr. Liguori said you can't account for how a particular business is run but you also can't say that the ice cream shop didn't generate less traffic than a Dominos would; it could have been a smash hit and generated a ton more traffic. Chairman Lowell said it could have and then it probably would have come to the notice of Bill (Scorca).

Boardmember Ward said from the front of the building out is 6.9 ft. Mr. Atkinson yes but you have to include a walkway there too in front of the building as right now there are stops installed off the building which are probably 3 or 4 ft. so you lose that 4 ft. He said so really that parking spot that's on their property would only be 2.9 ft. roughly and the rest all in DOT Right-Of-Way which is done in areas. Mr. Liguori said this is exactly what's gone on in numerous areas of the Village.

Boardmember Ward said again we've heard what you said and you have brought up some good points so now we will have to go back to the Building Inspector and our Attorney and respond for the next meeting. Chairman Lowell said that each of us can confer with each of them individually but we'll make sure we get all of that information together and we'll make a move at our next meeting.

Boardmember Foster said is there any concern about a restaurant being underneath residential property. Mr. Atkinson said it happens all over.

Chairman Lowell said the drawing doesn't show a stack for the oven: are you going to put a chimney out the back. Gerry (builder) said the exhaust will be on the back, far side of the building and up.

Chairman Lowell said do you have plans for the other side of the building. Ms. Buhan said we will probably rent it out if everything works out or else we will just use it as warehouse.

Boardmember Foster said where is your other place and Ms. Buhan said it is in Mahopac at 926 Route 6 and we have one in Mount Kisco. Mr. Atkinson said what do

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you see as the number of people that purchase and sit down versus those just getting take-out or delivery. Ms. Buhan said it is mixed. She said she has two places in Long Island with 18% carry out and 82% delivery. In Mahopac it started at 70% and as of last week we are at 50/50, she said. Mr. Atkinson said do you get any walk-in. Ms. Buhan said not so much but the people that work in the area walk in.

Boardmember Foster said how do you deliver, with private vehicles. Ms. Buhan said yes.

530 North Main Street

Peder Scott, Engineer and Architect appeared before the Board representing this application. Mr. Scott said this application has already been before the Village Board of Trustees and they started with them because this is in the PB Zone where you are currently allowed to have one residential house. He said we applied for an amendment to the PB Zone in the Statement of Use that was provided to the Board to include some multifamily special conditions. He said their intended Zone amendments would include the site has to be on North Main Street, the minimum lot size has to be 20,000 sq. ft. and we are proposing amendments to side yard and front and rear setbacks to amend them to 10 ft side; 5 ft. front; and 20 ft. rear; up to 50% coverage and 100 sq. ft. of Open Space per dwelling unit. He said the Board declared themselves Lead Agent and are working toward a Public Hearing. Mr. Scott said the Village Board referred us to your Board to evaluate the design elements proposed with the project. He described the project to the Board. He said they are at the corner of North Main Street and Wells and there is a park across the street. He said the property currently has a 1600 sq. ft. building with very convoluted parking in the rear. He said that in the package we gave you something by Bergendoff Collins. He said we provided a plan for you in which we're proposing 12 units, 3 stories high. We did a bunch of studies with the Village, he said, providing parking in the front or rear and ended up with parking in the front because when we looked at parking in the rear concepts, there were safety concerns due to the grade because it was too steep. Mr. Scott said the Village had quite a discussion about that and they concurred that safety was more important than goals of the Village. He said they want a wall in front of the parking between there and the street. He said because the slope is so steep they have double retaining walls in the rear and the building actually steps up the hillside. He said there the apartments will be 1200 sq. ft. which is different than what the plans say but by moving parking to the front we were able to add more space and there will be a center corridor entrance. There will be stormwater management, he said, with retention structures underground and they will connect to the Village sewer coming down Wells.

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Boardmember Foster said where will you plow the snow to? Mr. Scott said we will remove the snow off site as there is no real snow storage area. Boardmember Foster said how will you take it away? Mr. Scott said with a Bobcat to a truck. Boardmember Foster said that will take time and people will want snow removed right away. Mr. Scott said he could do a snow study for other areas with snowfall, compressed snow and snow creep.

Mr. Scott said there will be retaining walls in the rear made from Unilock or pre-cast concrete which will reduce the disturbed area and maintain vegetative space. There will be 15 ft. of rear yard area as there are dense trees that will act as a buffer. In the front will be the parking area, walls, trees, and a decorative gate, he said. He added we will be within the 40 ft. maximum height requirement.

Boardmember Foster said the doorway will be in the front with the parking lot. Mr. Scott said the 2 lower areas access using the front door but we didn't want tenants able to look in windows in the back when they park.

Chairman Lowell said there will be a problem with the intersection as this intersection is very busy and you also cannot see coming down the road due to the elevation. Having the entrance on North Main Street may be better, he said. Mr. Scott said there is a stop sign there and it is better to come off a side street and he worked with DOT standards, driving safety, traffic flow to determine that Wells Street was best for the entrance.

Boardmember Ward said Wells is one-way on Sundays. Mr. Atkinson said you could do an entry on North Main and an exit on Wells. Mr. Scott said we will lose two parking spaces. Mr. Atkinson said safety is the best option.

Chairman Lowell said this will be a model for Wells to the gas station and will be a big building and would prefer not to have the parking in the front. Mr. Scott said I will return to the next meeting with studies on both parking in rear and front. Mr. Scott said it is easier to make the building climb up the hillside than to have parking in the rear. He said he will submit the other plan for the next meeting so the Board can see the difference and he will look at traffic as well.

Chairman Lowell said what is the anticipated market for this housing. Mr. Nassar said it will be market rate housing as I am using luxury materials and not the typical options. Mr. Scott said the units will be 2 bedroom.

Boardmember Foster said will there be an elevator. Mr. Scott said no as the accessible units will be on the first floor. He said the building will have fire ladders installed in the

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upper windows for safety and there will be a fire suppression system for the entire building. Chairman Lowell said what will the exterior of the building be. Nassar said stone veneer 1-1/2 inches with clapboard. He said it will be a model for other buildings.

The approval of the Minutes from April 17, 2018 was deferred due to lack of members present that were present at that meeting.

Boardmember Foster made a motion to adjourn the meeting, seconded by Boardmember Ward and passed all in favor.