

**Village of Brewster  
Planning Board Meeting Minutes  
June 20, 2017**

**BOARD MEMBERS IN ATTENDANCE:**

George Gaspar, Chairman  
Rick Stockburger, Assistant Chairman  
Rick Lowell  
Tyler Murello  
Mr. Todd Atkinson, PE

**BOARD MEMBERS NOT IN ATTENDANCE:**

David Kulo  
Gregory Folchetti, Attorney, Costello & Folchetti

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

**REGULAR MEETING:**

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

Chairman Gaspar informed the Board that Counsel is not present as he is filling in for another judge on cases.

**Gerald Raskob, DDS - 530 North Main Street**

James Nixon appeared before the Board regarding this application. He summarized the application stating the project is located at the corner of North Main Street and Wells Street. He stated that Dr. Raskob is present and his dental office is at the corner but the property is deep going up Wells Street. He said they propose to subdivide the property keeping the dental office and parking functioning as it is now. It meets all the requirements because it's in the PB Zone, he said, and it borders the R Zone.

Boardmember Stockburger asked if it should be the R Zone and Mr. Nixon said that's a good question. Boardmember Stockburger said it would meet it but there are setbacks and lot area coverages for that. He continued: I looked at it and if you went with the larger lot area coverage and made it a professional building there would not be any spaces for parking.

Mr. Atkinson said he agreed with that and that was one of the questions that he brought up and this lot does meet all the zoning for PB but his issue after looking at it is in looking at the Comprehensive Plan with regard to PB it says that the frontage is zoned PB based on frontage on North Main Street which this other lot would not have. He said if you look at the way the lot lines are drawn along the PB Zone, with the exception of the corner of Williams where those building existed as commercial buildings for 100 years, everything else follows the line of the property where they have the frontage. He said this is a question he has for the Board although not part of his comments: is this an interpretation for the Village Board or the ZBA (Zoning Board of Appeals) to determine if

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they could still use the PB on the back side for the back lot or this would now be considered a residential lot because it doesn't have frontage on North Main Street. He said the slopes on Wells Street are not conducive to getting in there for more than just a residential house. Boardmember Murello asked if you could do residential in PB Zone. Mr. Atkinson said you can't. Boardmember Murello said you can do a single family in a PB Zone and Boardmember Stockburger and Mr. Atkinson both said yes.

Boardmember Murello said the question is: is it going to be PB or residential. Mr. Atkinson said it meets both requirements, it's just a matter of what you're going to put there. He said but using the Comprehensive Plan, which is not a governing document, but it was what the Village Board used as a template for the Code it would tell you that this property once you create it would turn into a residential and not a PB District and I'm not sure if that's what you intend with the property.

Boardmember Stockburger said there are no requirements for parking? Mr. Atkinson said if you are on North Main Street but not on Wells Street. Boardmember Stockburger said it doesn't say that, it says in the PB District there's no requirement for parking and Mr. Atkinson said but the PB District also says it has frontage on North Main Street which this property would not have.

Boardmember Murello said if this subdivision were approved it would have to be termed either PB or Residential? Mr. Atkinson said Counsel thought the PB rides with it because it is already in the PB District but the issue is that it doesn't meet the intent of what the PB District is. Boardmember Murello said could it be up to the client? Boardmember Lowell said could the Trustees just change the zoning to R for that subdivision? Mr. Atkinson said the Village Board could entertain changing the use for the property if the subdivision is approved. Chairman Gaspar said we would have to have a good reason to change it from one zone to another. Boardmember Lowell said the good reason is it's going to be located on Wells Street.

Chairman Gaspar said he sees two sides to this coin: show me what it would look like as a PB Zone and then show me what it would look like if it were converted into a residential lot. He said show my how a building fits and how we get on and off Wells Street. Boardmember Stockburger said if it's PB he doesn't need any parking because he would be in Parking Zone 2 where the restriction for parking was removed for the PB area. Chairman Gaspar said the removal of the parking would mean the parking would have to be on the street if there is no restriction for parking. He said that's why he wants to see diagrammatically how Mr. Nixon would place the building on the site for PB Zone. Boardmember Stockburger said in his mind according to the Code he does not require any parking. Chairman Gaspar said how do I support a building in the PB Zone without any parking and Boardmember Stockburger said that's what the Zoning Code says. Chairman Gaspar said emergency vehicles still need to be able to come in and off the site so where does it go if there is no parking requirement and Boardmember Stockburger said it parks on the street. Boardmember Lowell said that's a very dangerous place to park any vehicle.

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Chairman Gaspar said his other side of the coin is: if you show us a layout for a Residential Zone and show a house and where the access to the site is he would object to the fact that there would be no driveway in the PB Zone or no vehicular access. Boardmember Murello said if it is residential you will have to have a driveway.

Chairman Gaspar said the Board cannot make the determination what zone they want to go in nor can they make the determination to split this as another board will have to weigh in, either the Zoning Board of Appeals or the Village Board. He added that he wondered if this would be Spot Zoning in this instance. Boardmember Stockburger said if the applicant requests a zone change it's not Spot Zoning.

Mr. Nixon said if we are all in agreement that the new lot should be R I wouldn't see it as Spot Zoning but as moving the zoning line. Mr. Atkinson said it's moving the zoning line based on the intent of Comprehensive Plan. Mr. Nixon said realistically it's doubtful that someone would try to put a professional building on that new lot even if they had the right to as it's a weird spot and too complicated but in PB you can do a single family. He then described where he would put the driveway and his concept for the home which would be a basement garage with a two story house above it.

Boardmember Stockburger said if it stays PB you go from 25% lot coverage to 40% lot coverage and your FAR changes from 0.5 to 1.0 so you could end up putting a four-story building in there and Mr. Atkinson said no there is still a max on height of 35 ft. Mr. Atkinson continued: and while you are doing the subdivision if that is what is being contemplated you would be better off to get the approval now. Mr. Nixon said they are leaving it flexible because right now it is not the doctor's intent to build what we're talking about but just to create a lot. Boardmember Stockburger said we still need to be concerned with the height as the basement may not be part of the 35 ft. and Chairman Gaspar said New York State Building Code tells you how to do it so we set the height and the New York State Building Code tells us how to get there.

Boardmember Stockburger said if it stays PB whoever builds on it has to come back to the Planning Board for a site plan and Mr. Atkinson said correct because with residential you would not need that. Boardmember Stockburger said the Village Board could change the map to R Zone and Boardmember Murello said why would you have to when you can build a single family home there? Boardmember Lowell said just to be sure someone really innovative doesn't figure out a way to put a professional building in with parking and I would hate to see all that action put on Wells Street.

Mr. Atkinson said the intent right now is just to clear the lot and leave it? Mr. Nixon said create a new line and sell it. Mr. Atkinson reminded Mr. Nixon that any disturbance of land over 5000 sq. ft. you would have to file an NOI and do all that goes with that.

Boardmember Stockburger asked Mr. Nixon if he had reviewed Mr. Atkinson's comments and he responded yes and he had no problems with them. Mr. Atkinson said

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you will definitely have to get a new survey or have it recertified because he has to give the metes and bounds of the new line and the descriptions to be able to submit it to the County. Chairman Gaspar added plus the topo just to verify what the topo is. Mr. Atkinson said the topo seems to be a little off. He said he was out there and the topo is shown coming straight across on the lot onto Wells and there is a substantial drop in certain spots. Mr. Nixon said he took the information from the sewer maps. Mr. Atkinson said if it was taken from there some of the tree cover was interpolated as it was an aerial shot taken. Mr. Atkinson showed where the walls were in comparison to the topo used by Mr. Nixon.

Boardmember Murello asked when the survey was from and was everything on the plan there in then. Mr. Nixon said 1968 and Dr. Raskob said there was a parking lot but it when it was repaved he moved the wall back a little bit to make it a little wider.

Boardmember Stockburger said there are two ways forward: we leave it as PB and there may be some items the Village will need to clear up about parking or press to change it to R and have to go in front of the Village Board. He said that he believes one and two family houses do not need a Planning Board review even if it's PB. Boardmember Murello said that leaving as PB seems to be the best way. Boardmember Stockburger said if we leave it has PB there is the risk of someone coming in and putting something commercial in there.

Chairman Gaspar said he is interpreting the Board's discussion in that they are agreeing with a subdivision as a PB with the caveat that the survey and topo be brought up to date. Boardmember Stockburger said it might be good to get an interpretation with regard to parking. Mr. Atkinson said it would be up to someone if they came in and wanted to put in a professional building and tries to claim that they don't need parking and the Planning Board can look at that. Boardmember Stockburger said we might want to go to the Village for confirmation so that we know going forward when it comes up how to handle it.

Mr. Atkinson said at this point Dr. Raskob wants to create the new lot and whatever someone wants to do with it, it will be PB still so unless they are doing single family residential they will be back in front of the Planning Board. Mr. Nixon said to summarize they will update the survey including the topo; get the metes and bounds of the new line, and new deeds. Mr. Atkinson said you will still need a Public Hearing as well. Boardmember Stockburger said unless we waive it. Mr. Atkinson said you can waive it on a lot line change but not on a subdivision.

Chairman Gaspar said we will schedule a Public Hearing once we have a final map that we can say we have it and it's on file. Boardmember Stockburger said what about SEQRA? Mr. Atkinson said he asked Mr. Folchetti about that but he had not heard back yet. Chairman Gaspar asked when the next Planning Board meeting was and Boardmember Stockburger said July 18. The Board decided on July 25 for the next board meeting to allow time for the applicant and Town Engineer to review plans prior to

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that meeting. Chairman Gaspar asked for the plans to be put into PDF format and it emailed to him. Mr. Atkinson said Bergendorff should put together a Platt with the survey of what currently exists and then the subdivision Platt showing the two separate properties. He said they will know all the signature blocks that will be required. Chairman Gaspar asked what other agency needed to look at this project t and Mr. Atkinson said no DEP as there will be no land disturbance.

Boardmember Murello made a motion to adjourn the meeting. This was seconded by Boardmember Lowell and passed unanimously.