

**Minutes of the Village of Croton-on-Hudson
Planning Board Meeting
April 12, 2016**

Present: Rob Luntz, Chairman
Bruce Kauderer
Steve Krisky
Rocco Mastronardi
Absent: Janet Mainiero
Also Present: Daniel O'Connor, Village Engineer
Bob Anderson, Village Board Liaison

1. Call to order: Chairman Luntz called the meeting to order at 8:06 p.m.

2. PUBLIC HEARING

a) *379 South Riverside Avenue--Lawrence Doyle (Sec. 79.13 Blk. 2 Lot 26)--Application for Amended Site Plan Approval for Three Story Mixed-Use Occupancy Building.*

OPEN PUBLIC HEARING: Mr. Krisky made a motion to open the public hearing, seconded by Mr. Kauderer and carried in favor by a vote of 4-0.

Mr. Gemmola, architect, pointed out on the site plan some of the minor updates he had made based on previous recommendations and discussions on the site plan. There was a brief discussion about signage in the parking area in the back for tenants and retail stores, lighting choices, and security measures for use in the elevator.

It was agreed that the applicant would write a response to the Village of Croton on Hudson Planning Board responding to the Westchester County Planning Department recommendations as noted in the County's letter dated September 10, 2014. With respect to recommendation #2 regarding affordable housing, the Village Engineer noted that the Village Board had not adopted the model ordinance. With respect to recommendation #3 about sewage flows, the Village Engineer stated that he had placed a call to the Westchester County Planning Department to ask what its expectations were for an applicant to reduce inflow and infiltration.

Comments from the Public:

Doug Wehrle, VEB Chairman, stated that the VEB considered this building to be important and is setting the tone for what will be developed and built in the future. He stated that his comments were focused on the sidewalks since pedestrian access in this area is important. He suggested that that the sidewalk be widened and that the islands of greenery as shown on the landscape plan be smaller so that pedestrians could take a shortcut from Benedict Blvd. to South Riverside Avenue without having to go to the corner. He also recommended that a plastic privacy fence be constructed for the back of the parking lot since vinyl fences become mildewed.

The Planning Board agreed with Mr. Wehrle that wider sidewalks are preferable especially near the stores so that the sidewalks will encourage pedestrians to walk directly by the store windows. Mr. Gemmola will work with the Village Engineer to see how best to incorporate the widened sidewalks. The Planning board also expressed enthusiasm for incorporating benches with the sidewalks.

Mr. John Power, architect, stated that he saw the rendering of the proposed building in the Gazette. He expressed his disappointment in the design of the building, stating that he had expected more in the way of a design so that people would take notice of the building. He stated that there was very little variation in the building and criticized some of the proposed building's details.

Mr. Gemmola stated that a lot of thought had been put into the design of the building and he stood by the work he had done and believed that the proposed building was good for the village. Mr. Gemmola stated that he will bring the colors of the brick and the roof to the next meeting so that the Planning Board could look at some of the details of the proposed building.

The Planning Board acknowledged that everyone has a different opinion about architecture and that they will look at the details of the building.

There were no further comments from the public.

Mr. Dan Ciarcia, engineer for the applicant, stated that he is working on the stormwater and drainage report for the next meeting.

CLOSE PUBLIC HEARING: Mr. Mastronardi made a motion to close the public hearing, seconded by Mr. Krisky, and carried, in favor, by a vote of 4-0.

3. NEW BUSINESS

- a) *ShopRite Supermarkets, Inc. at 460 South Riverside Avenue (Sec 79.17 Blk 2 Lot 2)-- Application for Amended Site Plan approval for proposed expansion of supermarket.*

Mr. Dan Hollis and Mr. Peveraro stated that the plan had been updated with some additional detail plans but there had been no changes.

Solar Panels:

Mr. Krisky asked if Mr. Peveraro had any further information about the possibility of installing solar panels on ShopRite. Mr. Peveraro stated that he had spoken with ShopRite headquarters about solar panels and, as he had said in a previous meeting, ShopRite does not install them on its stores. Mr. Hollis pointed out that in the letter dated March 15, 2016, other energy efficiencies had been specified. This letter identified energy reductions which would be achieved through updated HVAC equipment, more efficient refrigerant equipment, and LED lighting.

Although some Planning Board members expressed disappointment with ShopRite's decision, Mr. Mastronardi commented that perhaps ShopRite had reviewed the numbers and made the determination that financially the return on this investment was not sufficient to go ahead with solar panels.

Sidewalks:

Chairman Luntz noted that the Planning Board had received Mr. Hollis' letter of April 8, 2016 and his legal opinion about ADA and liability. Mr. Hollis reiterated his legal opinion which stated that installing a non-compliant ADA sidewalk on the northern driveway was a "legal disaster waiting to happen."

Several of the Planning Board members wondered whether there was an advisory board to the ADA and if so, what would that advisory board say about putting in a non-compliant ADA sidewalk when an ADA compliant path has also been proposed. Mr. Peveraro stated that there was an advisory office but he was uncertain about who staffed such an office. Mr. Hollis noted that an opinion from an advisory board was not legally binding.

The Planning Board pressed Mr. Hollis to pursue an advisory opinion from the ADA advisory board based on the majority of the Planning Board's belief that the ShopRite property was an unusual case, and therefore, there might be a possibility that ShopRite could construct a non-compliant sidewalk in addition to the installation of a proposed compliant ADA sidewalk and still be adhering to the spirit of the ADA compliance law. Mr. Hollis stated that he believed it was "negligence per se", and it was very troublesome for the property owner, ShopRite (tenant) and for any agency (including the Village Board and Planning Board) to have a walkway that is not in conformity with the ADA. Mr. Hollis also stated that they had researched the issue very thoroughly and there were no cases that were found in case law that supported building a non-compliant ADA sidewalk. Mr. Hollis, although stating he understood the Planning Board's concerns, reminded the Planning Board that there have been no accidents to date on the northern driveway into the shopping center parking lot.

Mr. Peveraro stated that as an engineer he is responsible for the health, welfare, and safety of the general public and he strongly believes that a non-compliant ADA sidewalk in this area is unsafe and he would not feel comfortable signing off on such a steep sidewalk.

Mr. Kauderer asked if Mr. Hollis would find out the extent of the advisory board's authority and how binding its opinion would be. Mr. Kauderer stated that the Planning Board believed the proposed application would be a better project if an additional sidewalk could be installed. The Planning Board was in agreement that there were no issues with the ADA compliant sidewalk as proposed, but they wanted to have more facts about the advisory board's authority.

Mr. Kauderer made a motion to schedule a public hearing for the next Planning Board meeting on April 26, 2016, seconded by Mr. Krisky, and the vote carried, all present, in favor, 4-0.

4. APPROVAL OF MINUTES

Mr. Kauderer made a motion to approve the minutes of March 22, 2016, seconded by Mr. Mastronardi, and the vote carried all present, in favor, 4-0 (Ms. Mainiero absent).

5. NON-AGENDA ITEMS

- **3 Arrowcrest Drive (Fallacaro)**

The Planning Board discussed whether Mr. Mastromonaco would be able to fairly represent the village in his review of the retaining wall.

Mr. Mastronardi presented the case for inviting Mr. Mastromonaco to discuss an alternative approach to verifying the wall's safety. Mr. Mastronardi stated that no one can prepare an as-built and a design plan for the wall since the wall has already been built (a design plan assumes an intention and we do not know what the intention was since there are no plans).

Mr. Mastronardi suggested that the hired engineer go and look at the wall as an "existing condition", and make an analysis based on what needs to be done to make sure it is secure and will not degrade. Mr. Mastronardi stated that when he and the Village Engineer had looked at the retaining wall they saw some areas that needed to be shored up and reinforced; therefore, the question for the engineer might be what can be done to improve the wall's structural integrity, how are we going to monitor this wall, on what basis, and for how long?

The Planning Board agreed that Mr. Mastromonaco should give a presentation to the Planning Board and that Mr. Mastronardi's approach to analyzing the safety of the wall can be discussed with Mr. Mastromonaco.

Ms. Gallelli, ZBA Village Board Liaison, stated that the Zoning Board has some expectation that they will be included in a meeting with Mr. Mastromonaco. The Staff will notify the ZBA when a meeting is planned.

- Mr. Krisky noted that Yom Kippur falls on October 11, 2016 (a scheduled Planning Board meeting) and requested that the Planning Board, at an appropriate time, reschedule that meeting date. The Planning Board agreed to reschedule closer to the date.

6. ADJOURNMENT

There being no more business to come before the Board, the meeting was duly adjourned at 10:10 p.m.

Respectfully submitted,

Ronnie L. Rose
Secretary to the Planning Board