

**Village of Brewster  
Planning Board  
September 27, 2011**

Regular Meeting

Board Members in Attendance:

David Kulo, Chairman  
Rick Stockburger, Assistant Chairman  
Mark Anderson  
Renee Diaz  
Tyler Murello

Also in Attendance:

Anthony Mole-Planning Board Attorney  
Bruce Martin- JRFA, Village Engineer  
John J. Hogan, Esq., Hogan & Rossi  
Richard Ruchala

The **Pledge of Allegiance** was recited.

**Call to Order**

Chairman Kulo indicated that this was the regular Meeting of the Village of Brewster Planning Board. Chairman Kulo noted that Assistant Chairman Rick Stockburger and Board Members Mark Anderson, Renee Diaz and Tyler Murello were in attendance along with himself. Chairman Kulo made a motion to open the Meeting, which was seconded by Mr. Anderson. The motion passed by a vote of 5-0.

[Whereupon the Meeting was called to order at 7:33 p.m.]

## **New Business-**

### *450 Main Street- Rezoning Petition*

Mr. Anderson recused himself from this portion of the proceedings because he is the property manager for 450 Main Street and took a seat in the audience.

John J. Hogan, the attorney representing the Applicant, was requested to advise the Board of his position in this matter. He stated that a Petition for Rezoning had been submitted. The property is currently in a PB (professional business) Zone, which allows residences on the second floor of a property and personal uses on the first floor thereof. Mr. Hogan stated that the subject property looks like the buildings next to it and suggested that it might have been an oversight to have not accorded 450 Main Street the same zoning designation as its neighbors; Mr. Hogan noted that a change to a B1 (business 1) zone, the same as the buildings next to it, was being sought. Such modification would allow the landlord to rent the space for retail purposes. Mr. Hogan pointed out that the downstairs space in the building had been vacant in excess of three months.

Mr. Murello asked where the property line was. Mr. Anderson articulated the parameters of the property, noting it was three or four feet on the left side of the building and four feet in the back.

Ms. Diaz asked if the inability of the landlord to rent out the space was occasioned by the need for renovations to the building. Mr. Anderson answered, stating that a quality baker, with locales in other towns, had made inquiries about leasing the premises but did not further pursue the matter because a use variance would have been required to have a bakery there. Mr. Hogan stated that obtaining a use variance was a difficult task, and that insofar as he knew the Town of Southeast had granted only two use variances in the past 30 years.

Mr. Stockburger noted that it was the Planning Board's charge in this matter to make a recommendation to the Village Board on the rezoning petition and on extending the parking overlay. Mr.

Stockburger stated that parking was still a preexisting nonconforming use so no benefit would be derived from changing it. Further, per Mr. Stockburger, if the change sought was granted that would lead to more people requesting the same accommodation.

Mr. Hogan inquired if the parking was designated spots, to which Mr. Stockburger responded no. Mr. Anderson pointed out that there are five spots across the street from the property, to which Mr. Stockburger responded that they were not the landlord's but were rather shared spaces. Mr. Stockburger added that more spots would not be created so changing the parking overlay would have no effect except to allow others to petition for the same relief.

Mr. Anderson noted that the building in question had been in existence for 100 years and to not allow the sought change would be a negative for the Village's overlay district, which had been created to minimize the parking requirements, which no building extant in the Village today could meet. Mr. Hogan stated that he did not see the difference between parking overlay 1 (which has no parking requirement for ground floor businesses) and overlay 2; he also said that his bigger concern was the rezoning petition. If the parking relief sought wasn't granted the property is grandfathered in and there would be no parking requirement, obviating, per Mr. Stockburger, any reason for a change.

Mr. Hogan acknowledged that a zoning change is a significant matter. Ms. Diaz inquired as to whether or not the term "retail stores" includes "groceries." Mr. Stockburger recounted what had transpired in relation to a bagel shop, which had qualified as a retail establishment in lieu of a restaurant by adding other items, such as newspapers in addition to bagels, to what it offered for sale; it was left to the Building Department's Code Enforcement Officer to determine how the balance was struck. Mr. Stockburger further stated that his main concern is that while he cognizant that there is a critical issue with parking in the Village a PB Zone requires less parking than a B1 and changing the designation would be disadvantageous to the people and stores already there; the current businesses are the type where people drop things off, while something such as a restaurant would require that people have access to parking for an hour or two.

Mr. Murello offered that there was the need to increase activity in the Village and leaving things as they are makes the properties less rentable. Mr. Anderson noted that the middle space of the property has been vacant for four years. He went on to say that the landlord does not want to invest money in improvements for the space until he knows who the tenant will be, as renters want to personalize the space in accord with their own particular needs; for example, a tavern might require lines under the floor for taps while a different business would not. The landlord is willing to do buildouts once a tenant has been secured. Chairman Kulo stated that it is a big detriment to the Village if the building is not being utilized. The Chairman went on to note that parking comes up in every planning discussion and that the Village can't keep tying its hands predicated thereon. Chairman Kulo opined that there is a need to help development and to work with property owners. Mr. Anderson noted that he can always secure parking when he opts to come to the Village and that there is a need to open up opportunities for landlords and tenants to come to the Village to do business.

Mr. Ruchala, the owner of the Mail Station in the Village, stated that he is in general pro growth for the Village. He noted that in the past there were 13 parking spots appurtenant to his business but that now there were only five, with meters also having been put in for the spots on Hoyt Street. Mr. Ruchala stated that granting the changes sought would have a deleterious effect on his business, as well as all of the other businesses already there, as there is no parking even now. Mr. Ruchala further opined that the landlord's inability to lease the space was occasioned by the failure to do what is needed to secure a good tenant. Mr. Hogan offered that if the requested change was not acceded to then the landlord, who hasn't been able to rent the space for four years, would be limited to renting the space only for office use. Mr. Anderson pointed out that 35 years ago there were office uses but all of these tenants, save for James Nixon who is, according to Mr. Anderson, the only tenant who maintains an office in the core downtown, have abandoned their tenancies. Mr. Anderson stated that it is desirable for the landlord to have the maximum opportunity to rent the property, and also noted that a vital downtown would help Mr. Ruchala.

Chairman Kulo noted that there are internal problems in the Village and that there is competition with shopping centers outside of the Village. The Chairman opined that there is a need to put words into action and that even with a B1 designation it could prove difficult to secure a tenant but that the Planning Board should assist where possible. Mr. Murello stated that he did not believe the proposed change would have an adverse impact. Mr. Ruchala said that there are currently six stores there but only two parking spaces. Mr. Stockburger asserted that if the change was granted somebody could put a restaurant into the vacant space, as in a B1 district anything is allowed. Mr. Stockburger also declared that this zoning change would punish the tenants who are already there, and commented that this is a self-induced hardship, as the landlord purchased the building knowing there was no parking available. Ms. Anderson said that “a rising tide lifts all boats” and that vacancies have a negative impact. Mr. Stockburger remarked that the problem is the landlord, as the building “looks like trash.” Mr. Anderson noted that the landlord is aware of the need for improvement and is offering free months rent to assist a tenant in effectuating improvements. Ms. Stockburger asserted that changing the Code would be benefiting one person to the detriment of others.

Mr. Hogan inquired as to why this subject property was not rezoned when the contiguous buildings were. Mr. Stockburger answered that the rezoning process had been going on since 1992 and that nobody had ever appeared seeking such change. Mr. Murello asked when the current landlord had acquired the property, to which Mr. Anderson responded that the building had been acquired in the late 1970’s; Mr. Anderson stated that the issue is that with the current zoning the landlord is denied renting to a large number of potential tenants. Mr. Stockburger declared that the landlord had known that since the building was purchased and had never before now, despite the publication of public hearing notices, sought the requested change. Mr. Anderson stated that the landlord resides on Long Island and had never received an invitation to any of the aforesaid public hearings. Mr. Stockburger asserted that Mr. Anderson was familiar with the fact that the parking overlay was going on; Mr. Anderson responded by saying that he was of the opinion that it was for the benefit of one owner.

Ms. Diaz said that she knows that there is a need for a new master plan in the Village and that predicated thereon that she would be loathe to go down the path of changing the property's zoning designation now. Chairman Kulo pointed out that the Planning Board would not be making the decision on that request but was, as per the request of the Village Board, making a recommendation to that latter body. Mr. Stockburger declared that that recommendation should be that the requested change would have a negative impact on parking. Mr. Anderson said that the free market and rental rates should solve the parking problem. Mr. Stockburger asked why this particular property owner should be given relief while telling the other businesses that they would have to find other parking. Ms. Diaz asked if the Board wanted to change zoning because this landlord could not rent the vacant spaces and inquired if the Planning Board would change other zoning. Mr. Murello stated that the zoning change should be granted, asserting that the rezoning that had been done should have included this building. Chairman Kulo said that he would also recommend that the zoning be changed to B1 as it would be advantageous to not have vacancies on Main Street. Ms. Diaz pointed out that there is a new master plan on the horizon and that she is loathe to change zoning; moreover, she said that she requires a more compelling reason than the landlord's inability to rent the spaces.

Mr. Stockburger opined that the recommendation to the Village Board should be that the Planning Board was split 2-2 (Mr. Anderson having recused himself). There was discussion as to how the diverse positions of the Planning Board Members ought to be communicated to the Village Board. Mr. Mole suggested that each Member could write a memo to the Village Board elucidating his or her position. The Members agreed that this was sage advice and it was decided that these memos would be written by Monday, October 3, 2011 and delivered to Chairman Kulo, who would ensure that the Village Board then received them. Mr. Hogan expressed his gratitude to the Planning Board Members for their time and attentiveness to this matter.

### **Pending Projects-**

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

It was noted that Michael Liguori, counsel for the Applicant (who was precluded from attending this night's Planning Board session due to other commitments), was desirous of having a public hearing set on this matter. Mr. Stockburger stated that the Zoning Board of Appeals had continued its hearing on the Applicant's request for a variance from September 26, 2011 to October 17, 2011; Mr. Stockburger said that he believed that the Applicant would be afforded the variance sought by the Zoning Board of Appeals on the continued date. Mr. Ruchala [the Chairman of the Zoning Board of Appeals] stated that his Board wanted to at least see a solid plan and a change in the engineer's report to reflect what was transpiring; the Zoning Board of Appeals was also waiting to see what Greg Folchetti [counsel to the Zoning Board of Appeals] would draft. Chairman Kulo opined that it seemed reasonable to schedule a public hearing, which would encompass both SEQRA and the Site Plan Application, for the Planning Board's next Meeting on October 25, 2011, 7:30 p.m. at 50 Main Street, Brewster, New York; Chairman Kulo then so moved in accord with this. The Chairman's motion was seconded by Mr. Stockburger and was passed by a vote of 5-0.

**Accept Outstanding Draft Minutes of August 23, 2011**

Chairman Kulo stated that the next item of business was the Minutes of August 23, 2011. He inquired as to whether any Member had any changes he or she sought to have made, to which the Members responded in the negative. Mr. Anderson made a motion to accept the Minutes of August 23, 2011. Ms. Diaz seconded the motion, which was passed by a vote of 5-0.

**Member Training**

Chairman Kulo reminded the Members that the dates for the New York State Planning Conference were rapidly approaching. The Members asserted that they were aware of this; those Members who

would be attending noted that their arrangements had been finalized and that they anticipated an enlightening and productive conference.

### **Close Meeting**

The Chairman asked if there was anything else that any Member cared to raise, to which question the Members answered no. Mr. Anderson made a motion to close the Meeting, which was seconded by Mr. Stockburger and passed by a vote of 5-0.

[Whereupon the Meeting was closed at 8:31 p.m.]