

Planning Board Minutes January 11, 2018

Chairman Donald Pollock opened the January 11, 2018 meeting of the Amityville Planning Board at 7:00 P.M. and welcomed the public. He then introduced himself and the other Board members to the public.

Members Present: Donald Pollock, Chairman
Colleen Nugent, Member
Mary D'Andrea, Member
James Squicciarini, Member
Chris McCarthy, Alternate

Absent: Joseph Morin, Member

Other Attendees: Brian Donato, Building Inspector
Corliss Baskerville, Secretary to Boards
Christine Murdock, Clerk Treasurer

The Board and attendees recited the Pledge of Allegiance.

Chairman Pollock noted that all applicants are hereby notified that any/all agreed upon concessions, promises, pledges, assurances or declarations given by them or their duly appointed agents, during their hearing process shall become stipulations to any approvals given by this Board.

The first order of business is to make a motion to approve the minutes of the November 2, 2017 meeting and the December 7, 2017 meeting.

A Motion to Approve the minutes from the November 2, 2017 meeting was made by Ms. Nugent and seconded by Mr. McCarthy.

Vote on the Motion:	Chairman, Donald Pollock	-aye
	Mary D'Andrea	-aye
	Chris McCarthy	-aye
	James Squicciarini	-aye

Motion carried: 4 ayes 0 nays

A Motion to Approve the minutes from the December 7, 2017 meeting was made by Ms. Nugent and seconded by Ms. D'Andrea.

Vote on the Motion:	Chairman, Donald Pollock	-aye
	Mary D'Andrea	-aye
	Colleen Nugent	-aye

Motion carried: 3 ayes 0 nays

With no further Board Business Chairman Pollock moved on to the items on the agenda.

Application of Darren McVeety. Applicant seeks Architectural Review and approval pursuant to the proposed construction of a new detached two-car garage pursuant to §24-6 (A) (1) (h) of the Village code. Premises located on the north side of Sterling Pl approximately 885 ft. West of Broadway in a "Residential B" District known as 75 Sterling Pl a/k/a SCTM# 101-3-1-26.

Mr. McVeety spoke on behalf of this application. Mr. McVeety brought letters from his immediate neighbors in support of what he is building. Chairman Pollock presented the letters to the Board as Exhibit A. Mr. McVeety's neighbor accidentally burned his garage down. He is seeking to replace the structure. There are no Zoning Board requirements for this application. Structure is 25'x25' and is 2ft. off of the northside property. Mr. McVeety stated the garage will only be used for storage and the materials will match the house.

No one spoke against this application. Letters in support were submitted as Exhibit A.

A Motion to Approve the application with stipulations was made by Ms. Nugent and seconded by Mr. Squicciarini

Stipulations:

1. Structure should not exceed what is presented on the survey
2. Applicant must adhere by all Village, State and local laws.

Vote on the Motion:	Chairman, Donald Pollock	-aye
	Mary D'Andrea	-aye
	Colleen Nugent	-aye
	James Squicciarini	-aye
	Chris McCarthy	-aye

Motion carried: 5 ayes 0 nays

Application of Peter Morra as agent for Maria Finocchio. Applicant seeks a continuance of a public hearing in regard to the Architectural Review and approval pursuant to the proposed elevation of the existing pool house (C.O. #2005-32) to be in compliance with FEMA and NYS building code requirements with new entry deck pursuant to §24-6 (A) (1) (h) of the Village code. Premises located on the east side of Unqua Pl approximately 240 ft. South of Richmond Ave in a "Residential BB" District known as 26 Unqua Pl a/k/a SCTM #101-13-15-14.

Peter Morra spoke for this application. Mr. Morra stated the applicant is seeking to repair a cabana that was destroyed by Super Storm Sandy. He said that the application was brought before this Board as well as the Board of Appeals previously for a variance which was subsequently granted. As well, he said, a Building Permit was also subsequently granted. At that time, he said it was realized that the application should have gone back to the Planning Board for Architectural Review. The Planning Board had not rendered a decision previously because the application had to go before the Board of Appeals for a variance. Mr. Morra said the cabana is being built in the exact location to where it was before except for elevation to meet the FEMA specifications. The repair of it required a side yard variance. He said the raising of the structure required a height variance due to the changing of the angle of the roofline. He said the appearance will match the house exactly in material and color. Mr. Morra informed the Board that the architect was present, and he also had a copy of the Zoning Board approval if so requested.

Chairman Pollock stated that the plans represent a pool house which has a bathroom, a furnace which is questionable but realized the need for hot showers. Chairman Pollock asked if there was any way the structure could be moved forward 4 ft. He said he realized this is something the Board does not have the right to ask applicant to do but was curious if it could be moved closer to the highway. Mr. Morra responded that the Zoning Board approved the application subject to the plans before the Board, so it is not something the applicant is contemplating doing. He said the construction had already started and then a Stop Order was issued so they stopped the work, but it would a great expense to move it from where it is now. He said it is in the same place it has been for over 20 years. Chairman Pollock stated the structure is higher than before. He said, upon visiting the location, he could see that it blocks the view of the adjacent neighbor. Mr. Morra said he did not think it is much higher than it was before with the change in the roofline.

Al Sutton, Architect, 278 Old Country Rd. spoke on behalf of the application. Mr. Sutton stated that there is an existing detached garage directly in front of the house making it impossible to move it forward. He said the height is about a 30in. differential to where it was before. Mr. Squicciarini asked what date the Stop Order issued. Mr. Donato (Building Inspector) explained how he issued the Stop Order and responded he believed it to be issued

in November or October. Mr. Squicciarini asked if there was a reason why there was a delay between the Zoning Board variance being issued and the seeking of a Building Permit so many months later. Mr. Moora stated he did not know that there was a significant delay. It was done within the timeframe allowed to have the Building Permit and time to begin construction. Mr. Sutton said there was some time that the applicant went back and forth with height issues so there was an interaction between us and the Village which took a few weeks. Mr. Squicciarini asked if the applicant pursued an extension of time from the Zoning Board. Mr. Squicciarini also asked if there is a 180-day timeframe from issuance of a permit and variance in which you begin work. Mr. Sutton replied the applicant began work within the 6-month required time. Mr. Morra said the date the permit/variance was filed with the clerk on May 10th, making that the effective date. Ms. D'Andrea asked if there was a reason why the plans had an area of just 30ft. of wall and no architectural detail? Mr. Sutton stated that they approached the project with first step to match same architecture and the second step leaving the possibility of screen plantings along the fence line. He said the wall is within the 6ft setback. Ms. Nugent questioned the wash area in the plans and asked if there was going to be a kitchen to which Mr. Sutton replied no.

Chairman Pollock asked the purpose of an air conditioner in the storage unit. Mr. Morra replied it would be to keep the whole area cool especially in the summer with the fish cleaning area. Ms. D'Andrea questioned the fish cleaning area being inside of a storage area because it is usually on a deck and they are not near the changing room. Mr. Sutton said it matches what was already there. He said there was a utility sink there for years. The plumbing and all have been there for years. It is on record with the Village and was discussed with Mr. Lauria. He said the use of the sink was previously established. Ms. D'Andrea stated the fear is that the structure can easily be adapted to someone's house or apartment. Mr. Morra stated it is obviously a violation of code to have someone living there. It was also a stipulation of the Zoning Board approval that it not be occupied as a living space. Mr. McCarthy asked if the electric and plumbing are pulled out or if it is existing from what is on the plan. Mr. Moora responded that it is existing just not connected now due to construction. Ms. Nugent asked a question about the West elevation on the first floor it seems to have two windows but on the inside on the plans it only has one window to which Mr. Sutton replied that one of the windows is just paneling.

Mr. Handler of 50 Broadway and attorney for Ms. Schmitt (northside neighbor of applicant) spoke against the application. Mr. Handler is requesting the applicant's application be denied because the Building Permit and Zoning Board of Appeals approvals call for an elevation and there is no elevation happening. He said that the structure is being destroyed and there is nothing there to elevate. Mr. Handler also presented a letter from a Mr. Caliendo, as an expert opinion from a professional architect to evaluate the plans and panelizing technique.

Further conversation ensued between the attorneys and Mr. Sutton regarding the materials being in a pile to the side of the property and the technique of panelizing. Mr. Handler further requested that the Board read this application very closely. He said that this is not the lifting of an existing pool house rather a complete new construction. He also stated that the Board of Appeals approval was on an existing structure and you cannot do an architectural review on a structure that does not exist. Mr. Moora stated the letter from Mr. Caliendo is based on hearsay and not actual viewing of the property. He also stated he did not believe that the Zoning Board's application is subject to review by the Planning Board but what they were asking this Board to do is to do an architectural review of the plans before them and nothing more than that.

Mr. Sutton responded that the structure is relocated vertically, and the structure does exist. He stated that he has been licensed for 34 years in all the surrounding States. This is a simple method that does not take a Masters degree to perform and had the Order to Stop work had not been issued, the work would be completed by now. Of course, the structure looks a little off right now. Mr. Sutton said they have went through three sets of plans, repeatedly changing and amending the plans to comply with the Village's preferences and interpretations. This is just a shed, a rectangle which we really can reassemble.

Ms. Nugent found it notable that Mr. Sutton called the structure a house, a pool house, a structure and a shed. She asked Mr. Sutton why does it state on the plans that there is a kitchenette and a living room. Mr. Sutton responded he has five staff members and when they do pool houses the semantics of labeling come through. He said they did not have the "CO" in the beginning and the labeling came through and once he inspected the structure he could see that they were initially wrong in the labeling. It did look like a kitchen the way the plumbing was sticking through the wall. Ms. Nugent stated that the plans state removal of a kitchen and living room. Mr. Donato (Building Inspector) said he picked that up on the plans that were issued for the building permit when he did his review and did not issue a permit for any sleeping or dwelling unit and the plans were fixed for submission of the permit. Ms. Nugent expressed concern over the air conditioner and the fish cleaning area and the fact that it looked like there is insulation and heating on the plans. Mr. Sutton explained that when you have water and a toilet there is usually heat depending upon the jurisdiction to prevent freezing because most people don't always drain them out. Mr. Squicciarini asked Mr. Sutton if his client directed him to design a kitchen and living room or if that was sloppy drafting. Mr. Sutton replied no. He said he had designed her home and assessor structure and when he looked at the structure he made some assumptions as he stated earlier. We assumed, the Village corrected us, and we changed the plans accordingly.

Mr. McCarthy asked if the plan was for baseboard heat to be installed throughout the structure and if the furnace was just for purposes of the shower. He also asked about the exterior lighting. Mr. Sutton said that the electrical plans were not required for the permit but is planned for the structure. This is a small structure and does not affect the neighbor's view of the water in any significant way, it really doesn't.

Further conversation ensued regarding the Zoning Board approval and lifting of the structure, panelizing the roof as well as whether the structure is considered demolished or disassembled. Mr. Squicciarini asked if the roof existed and Mr. Sutton responded that it does exist as a component part, disassembled in a pile in a yard. Mr. Squicciarini asked if the shingles were up and questioned the permit stating they should be "matching existing". Mr. Sutton replied they were being replaced because they were asphalt and were destroyed and the "matching existing" referenced the color, texture and material match the house not the previous structure. Mr. Donato added that the roof to the house was being reframed anyway due to the changes. He said the house was on a slant and needed to be lifted. There was no floor so there are new elements of construction added which is the same as any other lift.

Ms. Schmitt, 6 Unqua Pl. (client of Mr. Handler) spoke against the application. Ms. Schmitt submitted photos of the structure being in the applicant's yard in a pile. She stated her belief is that the structure is demolished a totally new structure will be built.

Ms. Finocchio, 26 Unqua Pl. (applicant) spoke to her application. She stated that she has complied with all that the Village has asked of her. She said the structure is going to be less than she had before, one big room with a bathroom and a sink. She says she has been dragged through the mud going back and redoing her plans over and over.

Mr. Pollock reminded the Board the application came before the Board for an architectural review for already approved plans. He said this is the third meeting he has attended and as much as he has looked for everything he supposed to look for he was reminded again and again that the Board is here to do an architectural review on the building and that is it. It has already been approved for its locations and its height. There may be things that we don't like but that is not our decision. The height of the building is within what is allowed, and we cannot address that. We can address what is on the inside. What we can't have on the inside is living space, a kitchen or anyone spending any nights in there. It is not a second dwelling to be used by any family members or anyone else. Unfortunately, it is too late to stop anything if that was the intent, the time to do that would have been at the Zoning Board meeting at the time to dispute their rulings. Our job is to rule on the plans submitted. Mr. Squicciarini noted that the Code Section 24-27 also requires the Board to evaluate how a structure may adversely affect the value of its neighbor's property values and homes. Mr. Moora addressed the question by stating he did not understand how property values would be diminished by the same structure that was up before is going up again within the same parameters and footprint other than elevation, so it does not get destroyed and is required by FEMA. If anything, this would improve property values because it is a brand-new structure. Worst case scenario, it would bring them to the exact place they were originally before this was affected by a storm. Mr. Handler

reiterated his point that the approval is for an existing structure which the structure is not existing currently. He also added that there is a pending appeal to the Building Inspector's permit with the Zoning Board next week.

The attorneys both spoke further regarding the timeframe for which Ms. Schmitt had to appeal the Board of Appeals decision at which time the appeal was not made. There was also discussion on whether the plumbing should be existing.

Chairperson Pollock called a brief recess at 8:35 pm.
Chairperson Pollock resumed the meeting at 8:45 pm.

Mr. Moora (Attorney for Applicant) addressed some of the comments that were made. He said there was a lot of legal arguments before the Board that do not belong in this meeting. When they come up before the proper Board they will be addressed. He said the reason the job was stopped was due to the argument that this Board had never decided on the application before it before it going to the Zoning Board. The structure did exist at the time of the application to the Zoning Board. He said it still exists today, it is just in component parts.

Ms. Schmitt, 6 Unqua Pl spoke again stating that the applicant is trying to backdoor their way into creating a new structure so that they do not lose their non-conforming structure with plumbing status. Mr. Moora responded that this was a pre-existing conforming structure with a C of O and all proper permits. He said this was not built before the code existed. Chairperson Pollock reminded the Board again that they are there to perform an architectural review only. He said there are only three options here to (1) approve (2) disapprove or (3) reserve decision.

A Motion to Reserve Decision for 60 days was made by Mr. Squicciarini. There are many issues raised before the Board and this is a contentious application. He felt that the Board should do its due diligence and review the submissions and testimonies heard tonight, think about it and do research relative to architectural review and come to a determination with everything presented tonight.

Mr. McCarthy seconded the Motion to Reserve

Vote on the Motion:	Chairman, Donald Pollock	-aye
	Mary D'Andrea	-aye
	Colleen Nugent	-aye
	James Squicciarini	-aye
	Chris McCarthy	-aye

Motion carried: 5 ayes 0 nays

Mr. Moora expressed concern over the Board taking under consideration only the plans that concerning Architectural Review. He also, respectfully, asked if the Board could come to a decision before 60 days.

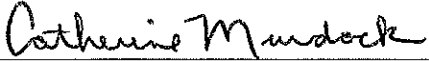
A Motion to Adjourn the meeting was made by Ms. Nugent and seconded by Ms. D'Andrea.

Vote on the Motion:	Chairman, Donald Pollock	-aye
	Mary D'Andrea	-aye
	Colleen Nugent	-aye
	James Squicciarini	-aye
	Chris McCarthy	-aye

Motion carried: 5 ayes 0 nays

Meeting adjourned at 8:57 pm

Respectfully submitted:



Catherine Murdock, Clerk/Treasurer