

**Village of Webster**  
**Planning Board Meeting Minutes**  
Meeting Minutes of August 4, 2016

Community Meeting Hall  
29 South Avenue  
Webster, NY 14580

**Present:** Peter Adams, Peter Bowers, Kathy Bills, Chris Krawiec, Atty. David Mayer, Building Insp./Code Enforcement Officer Will Barham, Deputy Clerk Jo O'Neill

Meeting came to order at 7:30pm.

Reviewed minutes from the July 7, 2016 meeting.

Atty. David Mayer indicated a change to the minutes on page 3 under "Closed to the Public", to read as, "it would be an unlisted SEQR because the building is part of a larger project."

**Motion:** Peter Bowers made a motion to accept the minutes as written with the above modification. Seconded by Chris Krawiec. All were in favor. Minutes were approved.

Peter Adams mentioned that the Webster Grange has been listed on the NYS Register of Historic Places. It has now been forwarded to the National Board for their consideration.

1) **Application:**

Kevin Higgins of NAS Sign Company representing NOCO Express, 54 West Main Street, tax ID # 080.46-1-1. Application for canopy signs and a monument sign. Applicant seeks relief from current zoning regarding number of signs, location of sign to a street line, and total allowable square footage. Applicable zoning section, 175-54 D. Property zoned: Central Business.

The application was tabled, as the NOCO representative had not arrived.

2) **Application:**

Richard Walter, owner of 20 Elm Street, tax ID # 080.10-3-42. Application to demolish existing garage and erect new garage. Applicant seeks relief from current zoning regarding distance of unattached garages to lot line. Applicable zoning section, 175-59A. Property zoned: R1-9.6.

**Presentation:**

Rick Walter indicated the existing garage is quite small, and they need a larger one to suit their current needs. In the existing garage, the mortar around the concrete block is cracked, and the original floor has deteriorated and cracked. The new one will have electric run to it, and there will be conduit put in for future use. Additionally, there will be a sink put in with a line running out through the back to tap into the sanitary sewer.

P. Adams inquired as to whether the garage will be heated, or have gas run to it.

R. Walter replied it will not be heated, but it will have gas for a generator in the future. There also won't be any floor drains.

Will Barham said the plumbing, waste and gas isn't a problem from a code perspective, but they will need to hook up to an existing sewer lateral.

P. Adams indicated he will contact the Historic Preservation Committee requesting that they inspect the garage to make sure there isn't any historical significance to the existing garage.

R. Walter has attended a meeting of the HPC, and has gotten an unofficial verbal response that there isn't any historical significance to the garage. In addition, there will be fake windows on the neighbor's side and gooseneck lights on the front to keep with the "1920 look".

P. Adams commented that there will be a side man door and a front man door.

R. Walter responded that it will be a split level garage. The side man door will be at the front grade level, and the back 8ft. will be at the back yard grade. The back will act as a tool shed.

**Open to Public Comments:**

None noted.

**Closed to the Public:**

Chris Krawiec questioned the applicant about having a "step" in the garage, and how they would prevent a car from rolling out.

R. Walter indicated that when they build the wall at the back of the garage the foundation wall will be extended up 6" above the floor where the level changes.

C. Krawiec mentioned the change in elevation from the lower level to the higher level is more than 30". They will need to install a permanent handrail, not just extend the wall up 6".

W. Barham confirmed the handrail requirements.

R. Walter said they are still working with the architect to determine where the steps will go from the front level down to the back level, as well as the possibility of adding a loft over the back section of the garage in the future.

W. Barham suggested they may be able to use removable bollards instead of a handrail.

P. Adams noted that the Planning Board is responsible for making a recommendation to the ZBA for a setback variance, as well as act on the site plan and Type II SEQR.

**Motion:** Chris Kraweic made a motion for a positive recommendation for the site plan approval, Type II SEQR, and demolition of the existing structure to make way for a new and improved structure, pending the official approval from the Historic Preservation Committee. Seconded by Kathy Bills. All were in favor. Motion passed.

**Motion:** Kathy Bills made a motion for a positive recommendation to the ZBA for a variance for an 8ft side yard setback. Seconded by Peter Bowers. All were in favor. Motion passed.

P. Adams noted the NOCO representative had arrived, and continued with their application. They are seeking variances for the number of signs, total allowable square footage of signs, and setback for the monument sign.

**NOCO Presentation:**

Paul Strada from the N.A.S. Sign Company, presented designs for the proposed new NOCO signs. This includes two internally illuminated wall signs on the building, which they already have permits for; “NOCO Express” (31sqft) and “Nickel City Foods” (16sqft), as well as two canopy signs and a monument sign. The canopy signs will have internally illuminated channel letters on the east and west sides of the canopy, near the north end, and be 20sqft. The existing pole sign will be replaced with a double-sided, internally illuminated ground monument sign. The monument sign will be 32sqft (4ft x 8ft), smaller than the existing 36sqft pole sign. Per the site plan and submitted photos, the proposed monument sign will be on the north west corner of the property, 2ft south of the W. Main St. property line, which is 12½ ft south of the curb. On the Corning Pk side the sign will be 2ft east of the property line, which is 15½ ft east of the curb. There shouldn't be any negative impact on the neighborhood, and the size is smaller than the current existing pole sign. It will only be illuminated during business hours.

P. Adams mentioned the board was not aware of the canopy signs prior. They are allowed two signs on a corner lot. They will need a variance for the number of signs. Total square footage of the signs is over 100sqft, so they will need a variance for that as well. He is concerned about the size of the monument sign. It is 8ft across and 4ft high on a 2ft base (essentially 6ft high). That significantly blocks the visibility for pedestrians and bike riders on the sidewalk. We would request a smaller sign.

C. Kraweic suggested that it's more the placement of the sign, as opposed to the size that's an issue. Based on the photo, the sign would extend out farther than the vehicle stop line, requiring vehicles to inch out farther to see the sidewalk and traffic.

P. Strada mentioned there will be two businesses in there now, and emphasized the need for the advertising space. They could move the sign back so the front of it is in line with the crosswalk, approximately 4ft farther south, for a total of 6ft from the property line.

P. Adams said that would be an acceptable change, but would still like to see a smaller sign, possibly only 6ft across and also reduce the base.

P. Strada indicated they could possibly reduce the size to 7ft across and 3½ ft high (24½ sqft) with an 18inch base, making it a total of 7ft across and 5ft high. They need the space for advertising, but could move the sign farther south for more visibility of the sidewalk and Main St.

**Open to the Public:**

Rick Walter reiterated that it's a bad corner, with poor visibility. You wouldn't be able to see children coming on the crosswalk. Moving the sign back to the stop line is still just in line with the front of the car, not the driver, so cars would still need to creep out farther to see.

P. Strada said they would be concerned with those things also. The sign is about 20ft back from the front edge of the sidewalk.

**Closed to the Public:**

P. Adams added that the crosswalk doesn't appear to be striped right.

C. Krawiec mentioned that a ground level sign isn't just a visual detriment for drivers outside of the property, but also for drivers inside the property trying to pull out onto Main St. They will need to have sight lines to the east and west in order to pull out. He suggested that the sign be moved back as far from Main St. as possible, a minimum of 4ft more.

P. Adams agreed, and said the curb cut along Corning Pk. was supposed to be moved back also. The sign should be moved back (south) a total of 6ft. They will need 3 variances: 1) for the number of signs, 2) total square footage of signs and 3) the setback of the monument sign. They will need to present their modifications to the ZBA, who may have other recommendations.

W. Barham determined that in calculating the square footage of the signs, they only need to consider the lettered section of the canopies.

P. Strada indicated that the canopies have an aluminum background, and the letters and line by themselves are inset 30" x 94", for a total of 20sqft on each canopy. He clarified that the entire lengths of the east and west canopies are 112ft each (not 112 inches as on the diagram).

W. Barham noted that the total square footage of all of the signs is 110.5 sqft.

C. Krawiec summarized that the ground level monument sign would have a 16in pedestal with a 2in cap, and a 42in sign for a total height of 60in (5ft). The width would have an 84in sign (7ft) on an 88in base.

P. Adams asked for a motion for a recommendation to the ZBA, and the variances needed for the discussed signs.

**Motion:** Kathy Bills made a motion for a positive recommendation to the ZBA for the canopy signs, the monument sign with the discussed reduction in size for an overall dimension of 7ft

wide x 5ft high and the setback being as far south as possible with a minimum of an additional 4ft, and a positive recommendation for the overall square footage and total number of signs. Seconded by Chris Kraweic. All were in favor. Motion passed.

**Discussion with the owners of Scenic Village Townhomes:**

(Louis Fico and Robert Fallone)

Atty. Karl Essler, representing the owners, addressed the board to clarify that the purpose of the meeting is to have an informal discussion regarding the plans for Scenic Village Townhomes.

P. Adams indicated this is an open discussion on issues that have been brought forward regarding the development, and to see how far along the plan is, where the site plan is going and whether the site plan is still valid due to the length of time it has been since any major work has been done.

Atty. David Mayer added that there is no motion to be considered and there would not be any decisions made tonight, but there is a concern that the site plan may have been abandoned due to the fact that the infrastructure has not been completed within a reasonable period of time after the site plan was approved. If that is the case, the board could consider formally revoking the site plan at a later date.

K. Essler pointed out that they are here voluntarily out of respect for this board, and that he has a stenographer here recording the discussion. He handed out diagrams of the plan for the Scenic Village Townhouse development, and proceeded to give some history of the development. The site plan was initially approved in 2005 and a revision was approved in 2008, without anything conditional about time on the approvals. The plan has not changed, and buildings have been constructed, referring to units 151 - 157, 155 – 161 and 164 – 172 on the diagram. Additionally, there has been a building permit issued for units 150 – 156, which the owners expect to begin construction on. This project has proceeded to develop, albeit slowly, and there has been progress. His client, Louis Fico, was not the original person who started the project and got the permits. He acquired the project around 2011, and has moved forward. He was the one who essentially built the units 155 – 161. The foundation was in place, but he built the actual buildings, and now has the permit to build units 150 - 156. With that history in mind, he asked the board to express what concerns and questions they had.

P. Adams expressed that it has been 4 -5 years since any major work has been done (to which K. Essler agreed). Granted there are no specific timelines noted in the original site plan approval, however we do expect a reasonable amount of building to occur, and don't expect significant problems. We have road issues, street light issues, sidewalk issues and parking issues, and the Village Board has heard from residents regarding these issues. We need to know when work will start. He inquired when the building permit was issued by Will Barham.

W. Barham indicated it was issued 2-3 weeks ago, and expires in a year.

P. Adams noted the street lights that were installed were not the ones that were approved. We need sidewalks and the roads are in deplorable condition. We understand that you don't want to finish the roads because of construction, but 4 years with no new construction is a bit much, which is why the Planning Board got involved and why we're concerned that the site plan is possibly abandoned. Will Barham had to ask you to put in the street lights. The residents there have to continue to look at the vacant lots, crumbling roads and live with that after putting a lot of money into their townhomes.

Louis Fico questioned about the street lights. He had shown Will Barham the lights and asked which ones to put in.

P. Adams indicated that the light fixtures were okay, but the poles were not.

K. Essler noted that there is an additional light just off of Serene Pk. that provides light to the street. It's not our light, but it does provide some light for the people who need light on Serene Pk. As for the project, it's certainly not abandoned. He asked Louis Fico how long it would be before he would start new construction.

L. Fico responded that unit 157 Serene Pk., which is Judy Gurnett's, roughly closed in August 2012. He then completed the exterior of units 151, 153 and 155. The inside had electric run, the concrete poured, basement stairs installed and had rough plumbing. The interior was left rough for new owners to choose what they wanted: where walls would go, flooring, colors, kitchen and so forth. We left it like that and listed it, but nothing happened. Since we were paying taxes on them, we decided to "blow them out, get rid of them". He then described what new construction/building costs are, referencing Ryan Homes as the best deal per square foot for new construction. At 2100 – 2300sqft, we ended up selling them for about \$70./sqft. We lost money on them to get them off the tax roll. Why didn't they "bring the money"? We had a couple obstacles: 1) some people don't want to be in a rental community, and 2) some people say they're too close to the expressway. So the next buildings we're going to put up will be "bare bones"; no tile floors, no drywall in the garages, no extras. The last building that was sold was unit 153 Serene Pk., which was sold on 6/26/15. Unit 155 Serene Pk. was sold on 4/14/15 and unit 151 Serene Pk. was sold on 6/26/15.

K. Essler inquired as to when they expect to start new construction.

L. Fico replied that his partner, who does the foundation and exterior, will start in 2 – 4 weeks. Then he (Mr. Fico) finishes the interior. Robert Fallone is the builder.

P. Adams understands that they plan to begin new construction, but it has been inactive for 4 years.

L. Fico replied that they have sold 8 units in the last 4 years.

P. Adams responded that those units were already built more than 4 years ago, and there hasn't been any new construction since then. There are still empty lots that look terrible. I'm concerned about the Village residents and how this impacts their/our housing values.

There's been a lot of controversy about this and complaints about this. The Village Board has had their fill of it. What we need to do is find out where you stand on it. You say you have a building permit, but no shovels have been put into the ground. We will rely on our counsel going forward.

K. Essler again noted that there were no conditions listed in the approvals as to a completion time.

D. Mayer responded that there is however, always an implicit condition that the infrastructure, not necessarily the buildings, but the infrastructure – street lights, sidewalks, roadways, water and all the rest - will be completed within a reasonable time after it's started.

K. Essler rebutted that there is nothing in the Village's code or Village Law that refers to any timeframe for the final completion of improvements. To address the road situation, the claim is that his client has done nothing, when in fact every year they have repaired and patched the roads. There are other public roads that are as bad or in worse condition than the private drive that his client has not top coated yet. We know it needs to be done, but if it's finished now, when construction vehicles come in there it will be destroyed. As for it impacting property values, there are other side streets and houses in the area that are in worse shape and affecting property values in the area. My client's buildings are beautiful.

C. Kraweic indicated that the points about other streets and houses are not relevant to the discussion about the Scenic Village Townhouses.

P. Adams inquired about the units they are planning on constructing. Are they going to be a cheaper version of the existing units?

L. Fico replied that the exterior will be the same, but the interior will not have tile floors and other upgrades. As for hurting the property values, every one that has been sold has closed at or above its value. The new construction is not hurting the property values. When you come down the street, there are 3 or 4 houses that need to be knocked down. That is what's hurting the values, not the new construction.

P. Adams asked Will Barham if the Village has been maintaining the lawns there.

W. Barham replied that yes, the Village has been maintaining the empty lots.

L. Fico noted that there are other houses where the lawns are high, and one house has no roof, just a tarp held down by 2x4's.

P. Adams again noted that the other properties are not part of this discussion.

L. Fico explained that there are 4 or 5 households there that we will never please. The first day one person moved in, there were rocks thrown through the windows. They called me and I went down there and replaced the windows. Then they complained that there were kids cutting through their yard to get to the school bus.

P. Adams again indicated Mr. Fico is getting off track. When I say the project has been ignored, there hasn't been any construction in 4 years. Has the project been abandoned? Where do things stand? Track houses do not go on for 4 years and have issues. The infrastructure should be complete. Going forward, where do we go with this?

D. Mayer indicated that if the Board decides that the site plan has been abandoned, the site plan can be revoked. Then at that point I believe, I would have to speak with the Village Attorney, there would need to be a hearing in front of the Zoning Board of Appeals. Then there would be the possibility of an Article 78. I would have to confer the details with the Village Attorney. That's the procedure that I see going forward, if it goes this route. If the infrastructure is deemed to be an abandonment of the necessary work under the site plan, that's how I see it going forward.

L. Fico asked if working inside the buildings would be considered construction.

D. Mayer replied that the main issue is the infrastructure; the sidewalks, the street lights, roads and parking.

C. Kraweic added that completing the interior of "shell properties" does not benefit the other residents there, if the sidewalks are incomplete, the roadways are incomplete, the street lighting is incomplete. Having a shell constructed and finishing it internally doesn't benefit any of the other residents. I don't know what your marketing plan or construction plans are, but properties that sit inactive are hard to move. There is a level of expectation from buyers that they will have decent sidewalks, decent roadways, and the infrastructure would be maintained.

K. Essler summarized that the project has not been abandoned. First, units 155 – 161 were in fact completed, including some exterior work. Every year something has been done to maintain the roads. There is work being done. The street lights have been put up. Mr. Fico had a fence put up after a resident complained that kids were crossing over their property to catch the school bus, totally at his expense. If this project was being abandoned, why would he do that?

D. Mayer noted that the issue still needs clarification. There's a difference between a commitment to a project and a commitment to a site plan. If a developer in general fails to complete the infrastructure within a reasonable period of time, any board would say that the site plan was abandoned, even if they are building the living units. The question is, has this developer sufficiently complied with the site plan so that the board could not find that the site plan has been abandoned? Or has the developer indicated that he does not intend to complete it, and has not taken the necessary concrete actions to complete the project and the infrastructure in accordance with the site plan?

K. Essler replied that their summary indicates that the site plan has not been abandoned.

P. Adams stated that there's a limit as to what's a reasonable amount of time to complete a site plan. This will have to be reviewed by Atty. David Mayer and the Village Atty. Don White.



We have an idea of where you stand on it, even though you say you haven't abandoned the site plan. We must move forward in reviewing the issue.

K. Essler concluded that they appreciate the Board's willingness to be heard, and this project is fully intended to be completed, along with the site plan.

L. Fico also thanked the Board for their time.

P. Adams indicated that there would not be any open public discussion at this time, as it's not a Public Hearing. He then asked for a motion to adjourn.

**Motion to Adjourn:** Chris Kraweic made a motion to adjourn the meeting.  
Seconded by Peter Bowers. All were in favor. Meeting adjourned at 9:15pm.

The next Planning Board Meeting is scheduled for 7:30pm on September 1, 2016.

Respectfully submitted,  
Jo O'Neill, Deputy Clerk