

**Special meeting of the Village Board of the Village of Brockport combined with the regular meeting of the Planning Board of the Village Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Monday, April 9, 2007 at 7:00pm.**

**PRESENT:** Chair R. Scott Winner, Member Charles Switzer, Member Arthur Appleby, and Village Clerk Leslie Ann Morelli.

Mayor Morton Wexler, Vice Mayor/Trustee Maria C. Castañeda, Trustee Hannelore G. Heyen, Trustee David J. Wagenhauser

**EXCUSED:** Trustee Carrie L. Maziarz, Vice Chair / Member John Brugger, Member Annette Locke, Building/Zoning Officer Scott C. Zarnstorff

**ALSO PRESENT:** Village Attorney Raja N. Sekharan, Village Engineer Jason Foote of Chatfield Engineers, Jim & Joan Hamlin

**CALL TO ORDER:** Chair Winner called the meeting to order and led the Pledge of Allegiance.

**JOINT MATTER:** Sunflower Landing Subdivision – request for construction site earth work blasting

Clerk Morelli shared that Sunflower Landing Project Engineer Kris Schultz and Drilling and Blasting Contractor Doug Nothnagle were at last week's Village Board meeting to request blasting approval.

Jason Foote of Chatfield Engineer (Village Engineer) said the installation of underground utilities has begun on Phase I of the Sunflower Landing Subdivision off East Avenue. During installation of the sanitary sewer, the contractor encountered solid rock near the surface. It is justified for the contractor to perform blasting to efficiently and effectively remove the rock for the installation of the utilities. hit rock while doing infrastructure work to install sanitary sewer lines. J. Foote said blasting methods are not uncommon and are used elsewhere. He said he sees no problem as long as safety precautions are used.

Clerk Morelli said S. Zarnstorff and the Village Engineer each submitted a review and D. Nothnagle submitted a letter requesting approval as well as copies of his credentials and insurance certificate. Per Village Code the Village Board needs to grant approval for blasting. Since 4 of 5 Village Board members were available to meet this evening and indicated that they would be interested in the Planning Board's input, the beginning of the regular Planning Board meeting was a good time to jointly address the matter.

Member Switzer asked the extent of the blasting. J. Foote said approximately 600 linear feet. Chair Winner asked the depth. J. Foote said 10 feet. Chair Winner said this was the case with Remington Woods on West Avenue a couple of years ago. He asked if the Village had received any complaints regarding blasting for that project. Clerk Morelli said not that she is aware of.

Trustee Heyen asked if they were requesting blasting approval for this portion of the development or for the whole project. J. Foote said the request is for the sanitary sewer. However, other utilities to be installed in the future may require additional blasting. Blasting mats or earthen cover is typically used to prevent exposed rock from flying.

The Village Code does not specify a notification requirement. Trustee Wagenhauser asked Village Attorney Sekharan if current regulations preclude the Village from requirement notification of property owners at either 250 feet or 500 feet. Attorney Sekharan said no. Trustee Wagenhauser asked J. Foote what someone 250 feet away might hear. J. Foote said at 250 feet one might hear a low tone rumble like thunder.

Trustee Heyen said she researched a few other municipal regulations regarding blasting and some require notification of property owners anywhere from 250 feet to 800 feet away. She said she firmly believes that neighboring property owners should receive some form of communication. She suggested that Clerk Morelli notify those within 500 feet as a courtesy similar to what is done for notification of public hearings. She said S. Zarnstorff feels the developer should have some responsibility for notification. Chair Winner agreed. Clerk Morelli could provide those addresses to the contractor as well.

Trustee Wagenhauser suggested that the contractor go door to door and have those neighbors sign off on having received the information. The contractor could then provide the receipt acknowledgement to the Clerk. Trustee Heyen agreed and said it shouldn't take long since it only affects a handful of properties. Chair Winner shared that there were a couple of property owners opposed to the development during the Planning Board process.

Member Appleby asked where on the property the blasting was needed. J. Foote said southeast of the existing garage barn approximately 200 feet from the road. The contractor stated that the closest house is 310 feet away. The contractor said he is required by his insurance to do a pre-blast survey of

properties within 250 feet. The insurance certificate names the Village as additional insured.

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Chair Winner said the request is appropriate and consistent. Any approval just needs to incorporate in enough time for notification.

Trustee Castañeda asked how the blasting was handled at Remington Woods. Chair Winner said apparently that developer never requested approval of the Village Board and it was handled through their pre-construction meeting.

Village Attorney Sekharan questioned what would happen if a property owner had objections and asked the Village Board if they had considered having a public hearing. Trustee Castañeda said that would be a month delay. Mayor Wexler asked what if someone objects. Chair Winner said he really feels requiring a public hearing for blasting is overkill. He reminded all that the Planning Board held public hearings on the project as required during its lengthy review process. J. Foote questioned what grounds a neighboring property owner would have. If there were extreme concerns of danger to their property, then a pre-blast survey could be done. Attorney Sekharan said he just wondered what the redress would be for a complainant. J. Foote said pre-blast surveys document the condition of homes by such things as photos of wall cracks and the like before and after. Trustee Wagenhauser said a complainant would have to have documented damage in order to make a claim. Attorney Sekharan asked if this special meeting of the Village Board was published. Clerk Morelli said the Village Board announced at their last meeting that once they received the information they needed the Board would be willing to gather to render a decision. It was not until this morning that everything came together and a notice was placed on the front door and the bulletin board at Village Hall. Attorney Sekharan asked if the developer would be financially harmed to wait. Clerk Morelli said their verbal request at the April 2<sup>nd</sup> Village Board meeting and written request of today indicated that time is of the essence as good weather and construction season is upon him. Chair Winner said the public has been heard from on the overall project. He said there is no reason to wait. In fact, he said he would be concerned of the ramifications to the Village of holding up the project.

Trustee Castañeda said she likes Trustee Wagenhauser's suggestion of door-to-door contact by the contractor with acknowledgement of receipt. Trustee Heyen agreed and stated that people should have 24 hours notice. J. Foote said Trustee Wagenhauser's method would be fine and also suggested that the Village issue a follow up mailing. Mayor Wexler asked how many houses would need notification. Clerk Morelli said less than a dozen. Since the project borders the Town of Sweden and the Town of Clarkson, she would also notify those Town Halls.

Trustee Castañeda asked if blasting approval would cover all utility work. Trustee Wagenhauser said it should. Chair Winner said the entire subdivision received preliminary approval, but only Phase I has received final approval.

Trustee Heyen said she is pleased to have the development constructed in the Village.

Chair Winner said although the Code calls for Village Board approval, he asked the Mayor and Trustees if they would like a straw poll from the Planning Board. Village Board said yes.

Planning Board was in agreement that this was a standard request, that there is no reason to postpone approval and that notification of property owners within 500 feet by the contractor and the Village was in order.

Mayor Wexler said that in essence the Village is simply asking for notification of properties within 500' at least 24 hours before beginning. If they went door to door tomorrow, they could begin the next day or day after.

→ Trustee Heyen moved, Trustee Castañeda seconded, unanimously carried to approve the blasting request for Sunflower Landing on the condition that the contractor make personal notification to property owners within 500 feet, submit proof of receipt to Village Clerk and that Village Clerk follow up with a letter as well.

Clerk Morelli sent the following letter the next day.

April 10, 2007

To Property Owners within ~500' of Sunflower Landing Subdivision:

As you may be aware, the installation of underground utilities has begun on Phase 1 of the Sunflower Landing Subdivision off East Avenue in the Village of Brockport. During installation of the sanitary sewer, the contractor encountered solid rock near the surface. It is justified for the contractor to perform blasting to efficiently and effectively remove the rock for the installation of the utilities.

Therefore, at a meeting of the Planning Board on Monday, April 9<sup>th</sup> the Village Board incorporated a brief special meeting to further review and approve the blasting request. Although not required by law, as a courtesy, the Village Board asked the contractor to make personal notification to **MINUTES OF MEETING HELD April 9, 2007 continued.....page 3**

property owners within 500 feet today and to mail you this communication.

Any questions or concerns can be directed to Code Enforcement Officer Scott Zarnstorff at 637-5300 X14 or to the rock drilling and blasting contractor through the contact information he provided to you.

Village Board members adjourned at 7:45pm.

**REGULAR PLANNING BOARD MEETING:**

**REVIEW OF MEETING MINUTES:** As there were not enough Planning Board members in attendance who were in attendance at the last meeting, approval of the November 13, 2006 meeting minutes was tabled.

**CORRESPONDENCE:** Chair Winner thanked the Village Board for supporting the new state law requiring minimal annual training for Planning Board and Zoning Board of Appeals members. Chair Winner reported that each Planning Board member is participating in the various Monroe County Planning and Development Training sessions this spring.

**PUBLIC HEARINGS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:**

- 1. Application of:      Name:            James Zisovski – Jimmy Z's  
                                  Address:        53 Main Street  
                                  Zoning:        Business  
                                  Purpose:      19' x 14' storage addition for restaurant & dumpster enclosure area

**Applicant Presentation:**

Steve (Papa Z) Zisovski was in attendance representing his son and Jimmy Z's. He said they have been in operation for 51 months. He said they would like to improve the rear exterior of the building and hopes that other Main Street business and property owners get the message to clean up the rear of their buildings as well. He said the Village does not have a property survey map. They are trying to get a copy from the property owner as well as copies from adjacent property owners. He said they know they cannot step over any boundaries. He said he could have provide written permission from the neighbors to cross the property lines, but decided not to do so in case property owners change in the future. He said they have the blessing of the property owners, Archie and Pat Kutz, who have submitted this in writing to the Village. However, the project is being fully funded by Jimmy Z.'s.

S. Zisovski said their rear entrance is used quite a bit and there is public as well as private parking in the rear. He said it would become even more important if and when NYSDOT is here working on re-doing Main Street.

He said currently the garbage containers are treated like public property. The temporary storage trailer will be removed and the garbage containers will be enclosed. The dumpster will then be accessible only to Jimmy Z's, Lift Bridge Book Shop and the upstairs tenants.

**Continued Board discussion on application:**

Member Appleby noted that there is a power pole only 4 or 5 feet from the building. He said they do not leave much room for construction. S. Zisovski said the garbage enclosure would be built around the power pole. Chair Winner asked if National Grid is okay with enclosing their pole. S. Zisovski said he had not asked them and wondered why they would have a problem with it. Chair Winner said if there is an electrical situation where they need to get at their pole, it might be difficult. S. Zisovski said he would be sure they could get to it. He said the enclosure would not necessary be locked up. He just wants it less accessible for anyone to use at anytime. S. Zisovski said their garbage hauler recently reduced the size of their dumpster and he does not know why. He has to contact them.

S. Zisovski said the proposed work would be an improvement and any colors would match what is there now. Member Appleby said he visited the site today and asked if they would be replacing the rear door.

S. Zisovski said yes. Member Switzer asked for clarification on the plans as to what exists and what is proposed. He said he had not visited the site yet. Member Switzer questioned the use of block rather than brick. Member Appleby said a structure to the North is clad in vinyl siding. Member Switzer said he also serves on the Main Street Rehabilitation Committee and sees this as an opportunity to begin standardizing rear facades of the Main Street buildings. He said the rear facades should have some measure of historical perspective as the front facades do.

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Chair Winner said he understands what Member Switzer is saying and does not necessarily disagree, however, the Village Code addresses only front facades of the downtown commercial district through its historic preservation ordinance and board. There was recently a grant opportunity for front façade improvement, but not rear façade improvement. S. Zisovski said he would love a way to recover some of the cost.

S. Zisovski said they would paint materials they use the same as the rear of the building and adjacent buildings so it blends as you look at it from a distance. Chair Winner suggested he not be concerned about matching the color or material of the vinyl siding used elsewhere and concentrate on matching to this building's red brick so that there is integrity with the structure the addition is being attached to, not adjacent to. Chair Winner asked S. Zisovski how he would feel about doing a faux brick finish. S. Zisovski said the rear of the building is actually stucco painted red, not brick.

Chair Winner asked if the handicapped lift at the rear entrance is still and would remain operable. S. Zisovski said yes. Chair Winner reviewed a memo from S. Zarnstorff regarding re need for a property map to review property lines and zoning setback requirements, that proposed exterior blocks should match existing color palette of the building, that a rear building address number needs to be affixed to the structure in a visible location, that additional exterior lighting is needed to illuminate the new exterior corridor and to light a pathway to new rear entrance way, provide material types and location of dumpster location, and condition that no outdoor storage of commonalities is permitted.

Chair Winner questioned the roof pitch. Member Switzer said he would want to be sure water doesn't drain back toward the entrance. S. Zisovski said he wants a pitched metal roof instead of a flat roof and said the property owner and S. Zarnstorff agreed that the pitch is sufficient. J. Foote said the plan detail notes it as a shingled roof. Member Appleby said shingles are a better choice. S. Zisovski said the sign can be relocated to the new addition to see it better.

Chair Winner said he hears Member Switzer's concerns about historic accuracy, but is not convinced it is a concern in this rear facade instance. He said matching stucco might not be worth the additional money. Member Appleby agreed. Chair Winner said it is a classic urban business rear façade and is what it is.

J. Foote suggested he notify DPW and call for an overall utility stakeout to see all that's back there. S. Zisovski said he spoke to DPW Superintendent Donahue and got the UFPO number to call. J. Foote recommended he avoid constructing over the top of any utilities. J. Foote asked if there would be electricity in the addition. S. Zisovski said yes. He plans to insulate the floor and walls and install an exhaust fan to prepare for possible future refrigeration for walk in coolers. J. Foote inquired as to the current ventilation fan and piping to the hot water tank and furnace. S. Zisovski said it would need to be relocated. The air conditioning unit and motion light will also need to be relocated. The point is to clean it up and maximize storage space. J. Foote said those should be shown on the plans. J. Foote inquired as to support for the north stairway.

Member Appleby agreed that it is important to see survey maps and to call "Dig Safe New York" before granting any approvals. The stakeout doesn't cost anything and is worthwhile. Member Appleby said he is concerned of the dumpster enclosure in relation to the pole with guide wires.

S. Zisovski said his reputation is to do a good job and his word is golden. The proposal will make a big improvement. He said he hopes his work and the Village code enforcement will pressure others to clean up the rear of their properties. He asked for as much feedback as possible so he doesn't need to return to the Planning Board too many times. He said he would like to break ground late June or early July.

Board agreed they were glad he was undertaking the improvements and that the following needs to be provided:

- Survey map
- Show applicable underground utilities (water service, sanitary lateral, electric, gas, telephone, etc.) on the plans.
- Show the property lines and property corners on the plans.
- Provide the dumpster fence type on the plans.
- Confirm the location of the new entrance door in relation to the A/C unit. (Understanding the door location may change depending on where the A/C unit can be relocated to.)
- Show all proposed and existing exterior lighting on the plans.
- Show proposed signage for the rear of the building on the plans.
- Signature blocks should be added to the plans for the Planning Board Chairman, Superintendent of Public Works, Building Inspector and Village Engineer.
- The roof leader should be connected to a catch basin and shown on the plans.

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S. Zisovski thanked the Board for their feedback and said the requested information would be forthcoming for the May or June meeting.

⇒ Member Appleby moved, Member Switzer seconded, unanimously carried to table further review of the application until receipt of the requested information.

Available Board members agreed to make a site visit on Saturday, April 21<sup>st</sup> at Noon.

**NEXT REGULAR MEETING:** Monday, May 14, 2007 7pm  
(Application materials due by Noon, Tuesday, May 8<sup>th</sup>)

**ADJOURNMENT:**

→ Member Appleby moved, Member Switzer seconded, unanimously carried that the meeting be adjourned at 8:40pm.

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Leslie Ann Morelli, Village Clerk