

Village of Victory  
Planning Board Minutes  
June 16, 2020

Call Meeting to Order:

Planning Board Chairman Cory Helwig called the meeting to order and led the pledge of allegiance.

Roll Call:

Chairman Cory Helwig, William Lloyd, Peter Healy, Tim Fort and Jake Fort.

Also attending: Acting Secretary Maureen Lewsey, Village Attorney Michael Catalfimo, Village Code Enforcement Officer Larry Wolcott, Village Engineer Al Longtin-Longtin Engineering, Kurt Bedore-Longtin Engineering and Jamie Easton, MJ Engineering.

Announcements: None

Approval of Minutes:

- Monthly Meeting - April 21, 2020 (pending)
- Monthly Meeting - May 19, 2020 (pending)

Returning Applicant:

**Regan Development, applicant**

**MJ Engineering, representative for applicant**

Jamie Easton stated he has been talking to Longtin Engineering on outstanding items and comments and hoping most of the technical comments are done. Easton discussed the timeline on state funding application and the application requirements. The applicant, Regan Development, wanted the planning board to know the timeline and urgency of getting the public hearing schedule by end of August 2020.

MJ Engineering has surveyed the tank and addressed the water pressure by adding the project won't be an impact. There may be a loss of 1 psi especially if firefighting needs arise. But that would be an impact with any house in the area, Easton notes.

Easton outlined that a survey was done of the existing building and elevation of the walls were done to determine the fall line should there be a collapse, which is an infrequent event. There is legal action from the village on the condemnation of Building #8. Easton notes that he has seen other communities address the demolition of a building and address it later. However, in this case, that building is owned by an LLC that cannot be reached and it would be a tax burden to the village. Easton notes that his client cannot do anything about it.

He also commented that he had hoped the recent comments from MJ Engineering had been reviewed by the planning board and at this time turned the discussion back to the board.

Chairman Helwig stated he would go through each comment and discuss the open items or any updates.

Al Longtin addressed the response from NYS Department of Transportation on the second curb cut. (They sent an email to Mayor Patrick Dewey regarding the project and that it did not necessitate having the second curb cut.) Helwig responded by reading the email from NYS DOT but will reply with the support of the second curb cut for safety reasons. Only one entrance is required for this project in this location but Easton added that based on the excavation standpoint he would request the support for the two curb cuts and he would like the planning

board to respond in writing back to NYS DOT on this issue. Helwig will make the response and send it back to NYS DOT and to everyone else.

The following items were addressed in the response as noted the fourth submission.

#1 Survey: MJ Engineering notes “no comment required” related to the status of the survey as they have a current deed and survey and therefore this item is Closed.

#2 Fall Zone Area: MJ Engineering responded on the revised fall zone of 1.5 times the exposed height and added is a protection barrier and is open for discussion on the barrier. Longtin confirmed the site plan drawings indicate the building height is 43.8 feet to peak of tower at northwest corner of building #8. It was agreed to be the dimension by Easton. Longtin suggested perhaps a 12’ safety fence along the fall zone line, and protective barriers and to keep the space secure by preventing anyone from entering or leaving that space. Longtin said this could be determined by the CEO but mentioned the use of jersey barriers. It was stated that there are safety standards that have to be in place to protect any endangerment and the health and safety of everyone. He also notes that building #8 may not be on the property but there is a delay and a hold up due to the causes created by building #8. Easton replied that if deemed necessary it would be up to the village.

Village Board/Planning Board Attorney, Michael Catalfimo introduced himself to Jamie Easton and stated this is not a new issue but rather has been an issue. The issue that he addressed involves the prior owner of Building #8 as Riverview Realty LLC. He also commented some additional facts; that he was the owner at the time litigation was in process and he could have addressed the demolition at the time he owned building #8 and before the actual application. The “client” with MJ includes Riverview and is considered a joint venture on the application, as submitted. This property is an endangered property and a damaged property and is considered unsafe. It was not too long ago that any attempt was unanswerable in damages. Easton replied that Riverview sold #8 right before the application was submitted so legally can’t take the building down. He also commented that it was a misfortune to be next to this property and bad luck in the shadow of the unsafe condition. It is a developable piece of property. He has revised his plans, moved the sidewalk, and addressed parking issues.

Catalfimo replied that he has been asking for proposed mitigation on the fence and screening options and absence of mitigation it compels the planning board to address the issue in SEQRA. The planning board is not looking to deny the project.

Easton replied that what is the legal recommendation? Alternative? Catalfimo replied it is not up to him to provide the solution. He questioned whether he has to move the parking and sidewalks. Easton discussed the unsafe property, the proposal to build and the mitigation alternatives. Easy thing to do would be to bank the parking and sidewalk and put up a fence.

Board member Tim Fort questioned the pump station and dumpsters also in the fall zone area. Easton replied those can be moved also.

Catalfimo added that they have not addressed the attractive nuisance. With vibration activity there is a heightened risk that has not been explored or considered. Longtin added the point is there has not been enough active discussions and no formal option given to the planning board. Easton replied he cannot go on the property as his client does not own it. Longtin said there could be a good will effort and asked if Regan has reached out to Uri Kaufman/Riverview.

Catalfimo added that Easton cannot say it is not my property and that there are no alternatives. There are neighborly options. There was a general discussion of building #8 and that the landowner is different than the owner of the building. To say it is a helpless situation is an argument that is not a good one. Easton replied that it was a private deal with Kaufman getting a percentage and that he works with Regan only.

Discussion of ownership adding that Riverview Realty owns the property and is noted on the application. They delegated power to Regan Development which in turned delegated the power to MJ Engineering. Easton stated that was past history.

Longtin discussed by moving the parking and sidewalk was not enough and would like additional discussion in finding a mutually agreement to the problem at hand.

Easton replied that you want something else due to past history. Catalfimo stated no that is not what the planning board is saying. What it represents in the present and how it remains a hazard. He said you are asking the planning board to grant a permit to put people in harm's way. His comments stated that the client is free to propose finding a way to take the building down and to have it become satisfactory. Easton replied that by the mitigation efforts the applicant has agreed to move items out of the fall zone.

Board member Fort inquired if anyone has contacted the power company on its own infrastructure below building #8. Easton replied he reached out three times and had no response.

Helwig stated that the planning board does not find the 29' chain link fence satisfactory. Longtin added that perhaps an evaluation of what the safety area should be implemented is determined. It is an aesthetic nuisance and cannot extend engineering beyond that. He feels there needs to be more discussion on the matter. A formal response should be issued specifically about this item. Catalfimo notes that it is a sensible approach and asked if the survey of the building height on record. Village CEO Larry Wolcott said Regan should be talking directly to Kaufman on this issue. Catalfimo replied that entity will not participate in the conversation with the owner of the land. Recently Consolidated Hydro had a change of ownership. Easton was not aware of that and noted that Regan has not has conversations, but he has done his due diligence trying to call.

Helwig finalized this discussion by stating Item #2 will remain open until satisfactory mitigation.

Catalfimo explained to Easton that the attractive nuisance does not mean it is an eyesore that was not what he means, it is more lacking awareness (of the impact).

Longtin stated the site plan could be refigured by moving the dumpster and parking (11 spaces) and can move them to the banked parking area. Board member Bill Lloyd stated the hazard is still there with the building there as kids can still get in there. It was stated that Regan and Kaufman need to talk to mitigate this issue.

Easton asked unless the building comes down the project will not go forward. If so, say it right now. Catalfimo replied that the planning board is not saying that. He is cautiously optimistic that all efforts need to be explored and an offer other the option provided can be made. Other than that, he has serious concerns. Helwig adds they want all possible solutions.

Easton talked about the public hearing as he was sensing the time frame. The delay seems to be about Building #8 and has not had a conversation with the applicant about it. He can have a conversation noting the board is not voting tonight and that the issue needs be addressed.

Easton discussed the history of Building #8 and from the outside looking in there is no recommendation he could make that this board would be happy with. He would like to be told now if this project is not going to get done because of building #8. Catalfimo replied that he is not saying that. It would be fair to say that the present mitigation is not sufficient to resolve the issue. The planning board has been clear of their concerns from the beginning and has offered options. Easton said he will reach out to the landowner again. Catalfimo supported discussing this with his client as a professional developer and he was sure there would be motivation and find a way to have a conversation

#3 Keep Longtin Engineering current regarding the litigation and its status on Building #8. Item closed.

#4 Full Environmental Assessment Form (FEAF): Kurt Bedore, with Longtin Engineering, made some comments about the water/sewer study received from MJ. On wastewater issues, discuss the sanitary sewer and how Schuylerville is factored in. Bedore stated legally Schuylerville has to accept the wastewater from the project and asked about getting a letter approving the acceptance from Schuylerville. Helwig notes that the joint sewer agreement takes into account the development of this project. The units are based on a maximum cap of units from Victory to Schuylerville but does allow adding additional units by using a different formula for those units over and above the original cap. It is not based on consumption. MJ has met with Schuylerville to discuss the project and there will need to be an acceptance letter from Schuylerville as its part of the SEQRA process. On water issues, Bedore asked if there are reservations that there are subpar conditions adding the project could make conditions even worse. Any condition will not go away and will have to be addressed. He stated it will be up to the planning board to make the decision if there is an adverse condition due to the project. This item is also before NYS Department of Health and we will be talking about it again. Easton added that there is a lateral extension and it is an impact even though it is a short duration. The commercial space if it is a brewery is the drain on the water system. Options to assist with the water pressure concerns; an elevated water tank, booster pumps for the water system, booster pumps in some homes effected in the area. Not sure about the use of commercial space, is still an option.

#5 Review of the Project against the village zoning law, comprehensive plan. Noted that the project is in the MUVIC District and within 500' of the Town of Saratoga. There are no additional comments. CLOSED.

#6 Review the Project against permitting agencies with the Village Planning Board acting as Lead Agency. The last review was on June 10<sup>th</sup> and a building code variance was received. The SEQR is still ongoing.

#7 NYS Building Code Variance – response dated January 16<sup>th</sup>/approved. CLOSED.

#8 Archeological Study. SHPO sent a letter said there was little to no effect. CLOSED.

#9 Impact to Schuylerville WWTP: Chairman Helwig noted they are waiting for the letter in relation to SEQR and referencing the joint sewer agreement for acceptance. Conditionally CLOSED.

#10 Parking Requirements: Helwig notes that the planning board would like to see both the north and south parking lots built. Easton replied that the banked parking would not be done due to the non-development of the commercial space. Al Longtin added that the board does not want to rely on the phased parking and would like it developed. They discussed the zoning variance on the banked parking. And by keeping it green space until the space or parking area is needed. Also discussed was having a larger parking lot than was needed. Helwig asked what the rest of the planning boards thoughts were about the banked parking and the phasing of it. Longtin stated that with the mixed space and its approval, the banked parking will need to happen. Planning Board member Jake Fort support keeping the north lot in the green space and to allow for later developing. However, Longtin wanted a final determination on this issue and after brief discussion it was agreed that the south parking lot can be banked and developed later as needed.

#11 Lighting Plan: Helwig notes this will be conditionally CLOSED. The architecture is not determined and as long as it meets the NYS and Building Code regulations.

#12 Location of Fire and Emergency Zones: The layout plan and utility plan identifies the fire and emergency zones and hydrant locations. CLOSED.

#13 Signage: The historic sign and lakes to locks placard need to be on the site plan. The informational kiosk has been provided from lakes to locks and should be implemented as has been requested by the planning board. Discussion was held on location and if they could be in one location. Easton stated he could provide a location

near the sidewalk creating a circled area with pavers and include a bench. That was agreed. Still remaining open until its noted on the site plan.

#14 Outdoor Lighting: A revised lighting plan has been provided. The architectural lighting will be reviewed during the building permit application. Added: As long as it meets with NYS Building Code.

#15 Building Uses: Plans have been updated. CLOSED.

#16 Project Phasing: This item remains open; the phasing has been discussed since the beginning.

#17 Project Performance/Grants: The planning has received a full understanding of the project sources. This item is CLOSED. (sources are NYS Home and Community Renewal and NYS Department of Environmental Protection. There are also Federal and NYS Historic Tax Credits)

#18 Infrastructure Funding: Impacts because of the project had been discussed. There will be no additional funding by the developer for impacts to fire station, sidewalks, traffic lighting or streetscapes. Helwig stated that the planning board recommendation is to leave it to the village board to address and to get a formal response. At this time, the item will close.

#19 Community Services: (services and amenities for overall public benefit) Helwig addressed the lack of connecting sidewalk from pedestrians off village sidewalks into the parking lot of the development with no plan for a walkway or path vs entering the parking lot area. He inquired about ADA requirements and if this is adequate for that criteria. Kurt Bedore replied that there are different options; if there were two entrances there should be two ADA sidewalks especially planned for the north side (entrance). He added that MJ could revise the plan to meet the grade and plan a sidewalk to ramp with railings. Easton replied that the different in grade is 5% and will be difficult. Longtin replied but not impossible. There was much discussion on the grade of the walkway and parking area. Walkways from the commercial space, from the basement level and the first floor were reviewed. Longtin suggested talking to AJ Coppola (project architect). Board member Jake Fort questioned if they were required to have two (ADA entrances). Easton replied no. At this time, Helwig asked to have clarification on north side entrance and stated we are moving ahead. Item remains open.

#20 Noise: Planning Board requests to follow the village noise ordinance. There are no additional comments. CLOSED.

#21 Commercial Space/proposed Brewery: Helwig stated that this space will require a separate project review by the Planning Board. It is in the mixed-use district, but approval is conditional for creating the commercial space only and not the use. Item is CLOSED.

#22 Amphitheater: Signage will be added but the site will have security camera's on site. Item CLOSED.

#23 CDTA Bus Route: Due to low ridership the route was canceled. Another location could be added in the future but at this time nothing is planned. CLOSED.

#24 REC's/Phase I Environmental report: Longtin notes that comments were added. PVE is working on the Brownfield Cleanup program for Regan Development. Item conditionally closed.

#25 Boundary & Topographical Survey: The last survey was done in March 2008 as referenced. It was questioned whether it needs a survey affidavit. Longtin replies that a formal land survey has already been done. Item is conditionally closed.

#26 Final and current boundary and land survey: All known easements, deed restrictions, covenants and other encumbrances should be noted. A downstream offsite easement is not required for the project. CLOSED.

#27 Underground Water Pipe Conduit: Easton replied that the water conduit does not run on the property. C-2 accurately defines the location of the pen stock piping. No additional information necessary. CLOSED.

#28 Wastewater System Assessment: This has been primarily discussed and outlined in the joint village sewer agreement. A letter is pending from the Village of Schuylerville related to SEQRA. Item conditionally closed.

#29 Easement access: MJ Engineering has added a heavy-duty pavement section and is noted on C-4 for ruts and pavement cracking. Item CLOSED.

#30 NYSDOT response: Helwig notes that a letter was sent by him on behalf of the planning board supporting the two egress's when only one was approved by them. NYSDOT has not responded so this item will remain open.

Site Plan Drawing Sheets:

- C-0
- C-1
- C-2: Existing Conditions: addressed but remains open.
- C-3
- C-4: Layout Plan: addressed walkable on north end/remains open. Also noted the sidewalk isn't curbed. Item E open, Item h: reduced commercial space from 5,000sf to 4,800 sf.
- C-5
- C-6
- C-7
- C-8
- C-9: Signs-Item b this has been clarified (historic placard to be installed)
- C-10: Lighting-all good, except plans for the exterior lighting to be addressed with building permit.
- C-11: Erosion control plan-ok to move ahead.
- C-12 Parking-future north parking lot not banked/south end to be banked.
- C-13
- C-14

Sheets D-1 to D-8 CLOSED

Chairman Helwig asked if there were any more comments. As there were none, he commented that the planning board can't schedule a public hearing until the applicant is ready for the public hearing to be scheduled.

New Applicants: none

Open Floor: none

Next Monthly Meeting: Third Tuesday, July 21, 2020 at 6:30pm

Adjournment:

**Planning Board member William Lloyd made a motion to adjourn the meeting with Planning Board member Pete Healy seconded the motion. Vote: 5-0, all ayes. Motion passed.**

Respectfully Submitted,

*Maureen Lewsey*

Acting Planning Board Secretary