

**Special meeting of the Planning Board of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Monday, October 10, 2007 at 7:00pm.**

**PRESENT:** Chair Charles Switzer, Vice Chair John Brugger, Member R. Scott Winner, Member Annette Locke at 7:35pm, Member Arthur Appleby, Building/Zoning Officer Scott C. Zarnstorff, Village Clerk Leslie Ann Morelli.

**EXCUSED:** Village Engineer Jason Foote

**ALSO PRESENT:** Steve Zisovski, Jim & Joan Hamlin, Fred Webster, Bob Webster

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

**REVIEW OF MEETING MINUTES:** Chair Switzer called for a motion to approve the minutes of the previous meeting.

➔ Member Appleby moved, Member Brugger seconded, Chair Switzer abstained due to absence, carried to approve the minutes of the meeting held September 10, 2007 as written.

**CORRESPONDENCE:**

Chair Switzer reviewed several pieces of correspondence including NYSDEC Flood Mapping meetings and updates on Remington Woods, McCormick Place and Sunflower Landing subdivisions from Chatfield Engineers. Also included was the Genesee Transportation Council's call for projects. Chair Switzer asked Clerk Morelli to forward this to Manager Coyle as the Village may wish to apply for funding opportunities for planning initiatives. Members Winner and Appleby submitted registration forms to attend the Genesee / Finger Lakes Regional Planning Council's Local Government Workshop on Friday, November 16<sup>th</sup> in Mt. Morris. Clerk Morelli said Members Hamlin, Borrayo and Sciremammano of the ZBA and Joan Hamlin as a citizen also plan to attend.

Member Winner referred to a memo from Mayor Wexler indicating that the Village Attorney would no longer attend Planning Board and Zoning Board of Appeals meetings unless specifically requested by the Board Chair in advance. He questioned the Village Board's impetus behind this change and why Board Chairs were not consulted. He said he knows of other municipalities who require the Village Attorney to attend Planning Board and Zoning Board of Appeals meetings. Member Winner said he would like to go on record as wanting the Village Attorney at all meetings.

Chair Switzer said often times an attorney is not needed. It will now be based on the application before the Board. Member Locke expressed concern that if the Boards have any questions of a legal nature it will be an inconvenience to the applicant to postpone decision, apprise the attorney, wait for an opinion and return to the next meeting. Jim Hamlin of the ZBA commented that it has really only been the last several years that the Village Attorney has attended Planning Board and ZBA meetings. Prior to that the application materials were just routed to the Village Attorney and Department Heads for review. He said the last few years the Village hasn't had a locally based attorney. Member Winner said the routing system didn't work well, so when he became Chairman he instituted Village Attorney attendance. Member Locke said the Planning Board should not put itself in precarious position acting without advice of legal counsel. Chair Switzer said if the Village Board's reasoning was to save taxpayer dollars by not paying the Village Attorney to attend PB and ZBA meetings, he could understand that. The Boards may have to postpone decision in some cases where legal counsel is needed. The Chairs can request the Village Attorney's presence if an application looks particularly complicated.

**PUBLIC HEARINGS:** None

**OLD BUSINESS:** None

53 Main Street – Jimmy Z's

S. Zarnstorff asked Steve Zisovski as to the status of his son's application regarding improvements to the rear of Jimmy Z's at 53 Main Street. The Planning Board reviewed the application at their April 9<sup>th</sup> meeting and requested additional information. S. Zisovski indicated that the application would not be pursued at this time and can be closed. S. Zarnstorff said if they decide in the future to pursue such improvements, the Planning Board would be happy to review a new application.

**NEW BUSINESS:**

|                    |                 |                    |
|--------------------|-----------------|--------------------|
| 1. Application of: | Name:           | James S. Zisovski  |
|                    | Address:        | 285 Main Street    |
|                    | Zoning:         | Residential        |
|                    | Property Class: | 210                |
|                    | Parcel Size:    | .25 acre           |
|                    | Purpose:        | driveway expansion |

**Applicant Presentation:**

Steve (Papa) Zisovski, Jimmy's father appeared on his behalf. He thanked the Board for agreeing to a special meeting, as they did not want to wait until the next regular meeting so as to take advantage of good weather. He submitted an e-mail dated October 9<sup>th</sup> from the owner's representative of the neighboring property at 291 Main Street that read as follows: "I, Justin S. Hall, am legal guardian for Edwin S. Hall Jr., owner of the property at 291 Main Street, Brockport, NY 14420. I have been contacted by Jimmy Zisovski requesting permission to impact a portion of our property while they widen their driveway and create parking the backyard of 285 Main Street. At this time I have no objection to them impacting the 2.5' x 20' portion of our property as outlined in their drawings. I have been assured that their impact on our property will not damage our access and that they will protect our driveway during construction and fix any damage that should occur. They will also provide landscaping for the impacted area."

**Continued Board discussion on application:**

Chair Switzer asked the reason for the proposal. S. Zisovski said safety is number one as it is difficult to back up due to the geographic configuration of the property. It is 3 houses south of the 5 corners firehouse and monument. There is heavy traffic and it is almost impossible to back out onto Main Street. Chair Switzer asked the use of the property and the need for 4 parking spaces. S. Zisovski said it is used as a rental. His son, Jimmy, is the sole owner. Although it is not currently owner-occupied, S. Zisovski said they have not ruled out he and his wife or Jimmy residing there in the future. Member Winner asked how long he has owned the home. S. Zisovski said for several months. Member Winner asked the classification of the home when it was purchased. S. Zisovski said it is a single-family home. Member Winner asked how many people occupy the home. S. Zisovski said 3. Member Winner asked the need for 4 parking spaces. S. Zisovski said the 3 occupants are all single and have significant others and visitors. He said there are not 4 cars there all of the time. He said his own household has 3 occupants and 4 vehicles. Member Winner said he wouldn't pursue this line of questioning if the home were owner occupied. He referred to the Village Code of no more than 3 unrelated in a rental unit. However, he said he walks at 5 or 6am each day and it appears evident that there is a crowd staying at the house. They may have 3 tenants on paper, but there are certainly more than 3 staying there. He said there were motorcycles on the front lawn on Monday. S. Zisovski said they are aware of the "no more than 3" code and abide by it. He was not aware of more than 3. Member Winner said there are a lot of owner occupied single family homes in that area and the net effect, impact and implications of undesired overcrowding may be the same as having 4 or 5 tenants on paper. He said S. Zisovski has a 5 year long and solid reputation in the community and he believes they are adhering to the no more than 3. However, the tenants may be doing differently than the property owner expects. Member Winner said the Planning Board has to be concerned that making accommodations for things such as parking does not abet a problem. S. Zarnstorff said he would address the issue with the tenants and not allow additional cars on the property overnight. He said he cannot control his tenant's guests, but can prohibit the guests parking. He said he could get the word out within 24 hours. He said he did not know of this problem, but he knows his cousin recently got a ticket for parking on the lawn there.

S. Zisovski said it was an estate purchase. The prior owner was elderly and the sole occupant. The son said the driveway went all the way to the back when he was young 40 years ago, but grew over. Member Winner asked if the driveway was asphalt or stone. S. Zisovski said very old asphalt. Chair Switzer said the proposed wall that would partly be on the neighbor's property would probably require a formal easement. S. Zisovski said the neighbor has no problem granting a permanent easement if the Village requires it. Member Appleby said he appreciates the written e-mail, but a formal easement would probably be best for all involved.

S. Zisovski submitted calculations done by S. Zarnstorff and can reduce the proposal from 45' to 41' to meet the Village Code's maximum 25% lot coverage rule. Therefore, it would be 30' x 41' instead of 30' x 45'. Member Appleby said his calculations are close, but differ slightly. S. Zarnstorff said the lot is on a skew, but the 30' x 41' meets the code.

Member Appleby commented that the short environmental assessment form (EAF) is not filled out completely. S. Zisovski said he would let Jimmy know he needs to stop and fill in the blanks. Member Winner asked Jim Hamlin of the ZBA if he sees any zoning concerns. J. Hamlin said not from the information he has seen.

Member Winner asked if any consideration was given to changing the driveway location from the south side of the house to the north side of the house. S. Zisovski said no. Member Winner said if so, there would be no easement issue, they wouldn't have to pave right to the house, there would be more room and good access to the rear of the house. Furthermore, if they ever wanted to build a garage, it would be easier to do so to the North.

Member Appleby inquired about the big tree in the rear. S. Zisovski said that is in the center of the yard east of the house and would not be impacted. Member Brugger questioned the drawing being to scale

and said his math shows 15' to the lot line and 15' to the house. S. Zisovski said he hadn't even thought about relocating the driveway, but those points are good ones and it might even be cheaper with the same or less amount of blacktop and no need for the wall.

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S. Zisovski asked if he constructed a driveway to the north, if he could keep the driveway to the south too. Members Winner and Appleby simultaneously said no. S. Zarnstorff reminded all that Main Street is a state highway, so a NYSDOT would be required to relocate a curb cut. Member Winner agreed and said especially if the curb cut is moving closer to the 5 corners. Member Winner questioned the possibility of sharing a curb cut with the neighboring property to the north (279 Main Street). Member Appleby questioned the applicant's timeline. S. Zisovski said they want to get started right away to take advantage of the weather and before the blacktop plants close. Member Winner said the NYSDOT process might be lengthy and push the project to spring time.

S. Zarnstorff expressed concern of the landscape plantings on the North side. Member Winner said the plantings are not extensive and not particularly maintained. S. Zisovski said the neighbor on the south side was very cooperative, maybe he could ask the neighbor on the north side if they could temporarily share his curb cut until they get their own. S. Zarnstorff said they might have an issue with it since it is a 3 family rental. However, the curb cut is within the right of way, and a property owner may not have the right to refuse to share it. S. Zarnstorff offered to contact the local representative of the property owner of 279 Main Street. The owner of record lives in California, but has a local relative as a representative. (He did so at the end of the meeting and the individual said he was fine with it temporarily.)

Member Brugger measured out the new proposal which provides for 5' from the structure, 30' to the lot line and 3 parking spaces for sure and a 4<sup>th</sup> parking space to be jockeyed for. Member Appleby asked if the grade change to the lot line would pose a problem. S. Zarnstorff said the drainage should sheet drain to the north. Member Brugger agreed and said if paved right it would run to the street. S. Zarnstorff said they could create a swale to avoid drainage to the neighbor's property. Member Winner said there are 2 sets of steps. He asked if there are 2 front doors. S. Zisovski said there are – both on the north side. Chair Switzer said the door where the patio is would be perfect to enter from the driveway. Member Winner said there is room to build a garage. S. Zisovski said that might encourage his wife to move in.

Member Winner said this plan has many merits including the preservation of green space in the back yard. Chair Switzer agreed and said it would be easier to maintain and possibly less expensive to construct.

Member Brugger said he appreciates the applicant's willingness to be open to suggestions. S. Zisovski said he only wants to make it better. After the driveway/parking improvements, they hope to improve the roof, siding, and windows.

Member Winner said he supports the proposal to construct a driveway to the north, but would not support the proposal as submitted regarding the driveway expansion to the south. S. Zisovski asked if the original proposal would be denied if he can't get the ok from the neighbor and NYSDOT for the new proposal. Member Winner said he would want to exhaust all other options before having to return to the original proposal.

Chair Switzer said temporarily sharing the curb cut is fine, but it makes sense to have his own curb cut in the long run. S. Zarnstorff agreed. He said this is the time to apply for and install a curb cut, as the Main Street rehabilitation is slated to begin in 2009. Member Winner said it would be imperative that the south driveway be ripped out the day the north driveway is completed. S. Zisovski agreed.

Member Winner commented that there are other cases of shared driveways in the Village and on Main Street. S. Zarnstorff agreed. Joan Hamlin agreed and mentioned a couple of them. Chair Switzer recalled that Village Center Apartments at 222 Main Street has a shared curb cut with the rental property next door and had to take some steps to make it work.

S. Zarnstorff verified that the applicant could stay with the same 40' x 30' area and stay within code.

⇒ Member Appleby moved, Member Winner seconded, Member Locke opposed, carried to grant approval to relocate the driveway to the North side of the house as discussed in detail on the following conditions:

- that he obtain written support from the property owner of 279 Main Street to share his curb cut temporarily and submit it to the Village Clerk
- that he make application to New York State Department of Transportation for his own curb cut
- that he remove the existing driveway to the South side of the house immediately upon completion of the North driveway
- that he pave the driveway within one (1) year

- that he return to the Planning Board should the property owner of 279 Main Street or the NYSDOT reject his proposal

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**NEXT REGULAR MEETING:** Monday, October 29, 2007 7pm if there are applications (since 11/12 is a holiday)  
(Application materials due by Noon Tuesday, October 23<sup>rd</sup>)

**ADJOURNMENT:**

- ➔ Member Winner moved, Member Locke seconded, unanimously carried that the meeting be adjourned at 8:15pm.

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Leslie Ann Morelli, Village Clerk