

VILLAGE OF CHENEQUA
PLAN COMMISSION

MINUTES OF THE JUNE 1, 2004 MEETING

The meeting was called to order at 7:00 p.m. by Chairman Harkness.

Present: Chairman Harkness, William Biersach, Carla Garnham, Gary Zaiser, Tom Rolfs, Holly Warner, Peter Zlotocha and alternate Andy Gehl. Also present Chief/Administrator Douglas, Building Inspector Tising, Village Attorney Krutz, Clerk/Treasurer Igl, Village President Styza, Frank Boucher and several of his representatives and a group of interested citizens.

Chairman Harkness stated that additional documents had been provided by the neighbors, Dr. James and Sally Youker, prior to the meeting but that the Plan Commission would primarily review those documents which had been submitted as a part of the application and reviewed at the previous meeting.

Chairman Harkness asked the Plan Commission to review the minutes of the May 17, 2004 meeting in detail and to discuss issues that were raised at that time.

Chairman Harkness asked about the concerns raised regarding the driveway. Applicant Frank Boucher stated that he intended to repair the driveway after the completion of the project.

Chairman Harkness asked Building Inspector Tising for his input regarding the application including shoreline cutting, erosion and lighting. Building Inspector Tising stated that the plans meet all criteria in the Village Code. He further stated that erosion control is regulated by State code and he will enforce that code. He also stated that water runoff on the property will be better contained with new construction than with the previously existing structure. Building Inspector Tising stated that the Boucher's property may have a clear cut area of slightly larger than 35 feet within the 75 foot setback and that the applicant has been advised that no additional cutting within the setback can be done per the Village code.

Chairman Harkness inquired about the concerns raised about lighting. Building Inspector Tising stated that the Village does not have a lighting ordinance but that all exterior lighting for the application is proposed to be low wattage. Building Inspector Tising also stated that he would inspect the property during construction and at its conclusion to ensure that the actual lighting was in compliance with the plans submitted by the applicant.

Chairman Harkness inquired of the Zoning Administrator to comment on the lot requirements. Chief/Administrator Douglas stated that the application meets all Village code and that it is a legal lot. Building Inspector Tising stated that the house had been

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moved back slightly from the original plan and that an artists rendering showing the “as viewed from the lake” drawing had been presented by the applicant. Commissioner Zaiser commented that the rendering showed leaves on the trees but that six months of the year there would be no leaves; therefore, there would be little shielding of the house from the lake view. Commissioner Garnham stated that she felt it was difficult to tell if the perspective of the as-viewed from the lake is correct. Chairman Harkness stated that the house is set back significantly from the lake and that he felt that less of the house would be visible than what was depicted on the as-viewed from the lake drawing. Commissioner Garnham stated that the proposed residence would have a significant impact on the neighbors to the north because of its size. She further added that the neighbors would be impacted by the recreation area -- the pool -- being on the lakeside of the house.

Chairman Harkness brought up the issue of landscaping and stated that the Commission had been presented with materials 5 or 10 minutes before the meeting. Because of the lack of opportunity to review the new submission, he intended to have the Commission focus on the plans and information previously submitted. Chairman Harkness stated that the neighbors had requested additional landscaping to provide screening and he urged the neighbors work this issue out themselves because both the applicant and the neighbors had stated that they desired privacy.

Chairman Harkness asked about concerns over the pool. Building Inspector Tising stated that a tree line between the properties will hide a portion of the pool area from the neighbor’s view.

Chairman Harkness asked about the water control plan. Building Inspector Tising stated that although the proposed house was larger than the previous structure in overall area, it covered only 1% more of surface area on the lot than the previous house. He did not consider there to be a water run-off problem. He did state that the applicant was required to control erosion during construction and that on behalf of the Village, he would control run-off during construction.

Chairman Harkness stated that there was apparently some neighbor dispute as to the silos located on the Boucher’s property. A letter submitted to the Commission from resident Judith Stark was read for the audience (attached as Exhibit 1). Ms. Stark, who was also present, requested that the two fieldstone silos be preserved because of their historical significance. Chairman Harkness stated that at the April Plan Commission meeting, the neighbors in attendance had asked that the location of the detached garage be changed due to safety concerns about the curve in the driveway. Those concerns resulted in the removal of the silos which Mr. Boucher had originally intended to maintain. After that meeting, the plans were in fact changed to include the removal of the silos and the location of the garage was changed. Residents Judith Stark and Dr. James and Sally Youker spoke in favor of saving the silos. Resident Paul Villavicencio stated that he felt

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that the garage in its originally proposed location would block the curve and presented a safety concern for use of one of his driveways. He felt that the silos should be removed in order to relocate the garage on the site.

Resident Kathy Seidel stated that she felt that the Village Code did include architectural and aesthetic requirements and that the Plan Commission should consider the view from the lake as an architectural review board. Chairman Harkness urged Mr. Boucher to work with the neighbors to try to retain the silos.

Chairman Harkness stated that if approval were to take place at this meeting, that it was the consensus of the Commission that the retention of the silos would assist in maintaining the Village character.

Chairman Harkness asked Village Attorney Krutz to review what the Plan Commission was authorized to consider. Village Attorney Krutz stated Section 5.03(6)(b) of the Village Code identified the standards which the Plan Commission was to apply. He stated that Section 5.03(6)(b) required the Plan Commission to make two determinations and that those determinations included both subjective and objective criteria.

Commissioner Zaiser asked whether the staff had met with the applicant and neighboring property owners as discussed at the May 17 meeting and set forth in the minutes. It was discussed that the meeting had not occurred but that the staff had met with the applicant and representatives at the site to discuss the plans by request of the Plan Commission Chairman. Commissioner Zaiser stated that he believed it would be helpful for the neighbors to meet and that the Commission had asked that such a meeting with staff take place.

Resident John Gehl stated that he felt this proposed structure is not "in keeping" with neighboring properties and violates the Village Code. He further stated that he felt that neighbors should be allowed to determine whether a proposed residence is "in keeping" with the Village. Commissioner Biersach stated that the Plan Commission makes the decision of what is appropriate or "in keeping". Commissioner Garnham asked whether a professional such as an architect could be hired to make a determination. Village Attorney Krutz stated that it is the duty of the Plan Commission to determine the subjective criteria such as aesthetics and architectural issues. Dr. Youker stated that the proposed house was very large and that it would have a negative impact on his property and on the lake.

MOTION made by Gehl, seconded by Rolfs to approve the minutes of the May 17, 2004 meeting as presented. Motion carried.

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Village Attorney Krutz recommended that a site visit should be conducted to ensure all of the Commissioners had the opportunity to view the site as a result of concerns raised regarding the accuracy of photographs and renderings submitted by the applicant.

The Commission members, staff and most residents left the Village Hall to conduct a site visit at 7:55 p.m.

The meeting reconvened at the Village Hall at 8:20 p.m.

Resident David Barnett commented that he felt the issue is how much of the residence will be seen from the lake. He further added that he was concerned that the Village was losing its "sense of place" which he likened to a northwoods setting.

Commissioner Garnham asked for an explanation of why it would be inadvisable to hire an architectural expert to comment on the proposed residence. Chairman Harkness stated that the Plan Commission is to make this decision. Village Attorney Krutz stated that it was not advisable because the Plan Commission acts as a quasi-judicial board and cannot delegate its duties to others. He further added that the procedures do not allow for the Plan Commission to hire outside advisers as to subjective criteria. He stated that the procedure to be followed is set in the Village Code. Chairman Harkness stated that the proposed residence would not be the largest on the lake and that it is setback quite a distance from the lake. He further stated that ordinances regarding size may be considered in the future but that currently, there is no size limit in the Code.

Alternate Andy Gehl stated that he would not be voting on the application because the entire Commission was in attendance. He stated that even though the application meets the objective code standards he did not believe that bringing in an expert as being against the code. He stated that if he was voting he would not approve the plan based on aesthetics because he felt the proposed house was not appropriate for the lot. He further stated that he believed the Commission had the ability to look at the aesthetics and architectural aspects of the plans, otherwise there would be no need for the Commission because the Building Inspector could address all of the objective criteria. He stated that there were ways to make the house seem smaller but that had not been accomplished by the applicant.

Commissioner Biersach commented that the house was aesthetically in-keeping with the lake. He also stated that the code deals with architectural aspects of the plan, not size. He stated that a concern is how much of the house will be seen from the lake view and that several houses on the lake are many times more visible than the proposed house because this house would be set back and the trees pinch together to shield the view. He also stated that newly planted trees will grow and will add further blockage.

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Commissioner Zaiser stated that beauty was in the eye of the beholder and he did not consider the house to be aesthetically pleasing. He said he was concerned about the 72 windows facing the lake and that he felt that the proposed house was at variance with 95% of the houses on the lake. He also stated that it could very easily result in a depreciation of value of other houses on the lake.

Commissioner Garnham stated her objections to the application based on the aesthetics of the house. She stated that the house was horizontally inappropriate for the size of the lot and that it would needlessly impact the neighbors to the north. Chairman Harkness restated that the application conforms with all setback requirements.

Commissioner Warner stated that she adopted Andy Gehl's comments. She also stated that she had received a call from a lake resident with concerns about whether there would be a problem with reflection off of the windows at sunset.

Village Attorney Krutz stated that any motion should take into consideration the two determinations identified in Section 5.03(6)(b).

Commissioner Graham asked whether the Commission could get an opinion from any appraisers or the assessor as to whether the proposed residence would leave a negative effect on the value of neighboring properties. Village Attorney Krutz stated that such an appraisal could be performed but that it was very unlikely that an appraisal would show a depreciation in value for any property. Rather, it was much more likely that this residence would result in an increase in property values for neighboring properties and other properties on the lake.

Commissioner Zaiser stated that he thought it unusual that staff had recommended that architects would not be welcome to advise the Commission but that other technical experts such as an engineers and appraisers would be allowed.

MOTION made by Zaiser, seconded by Garnham to deny the application based on architectural and aesthetic views as it would impact the immediate neighboring properties as well as homes viewing it from the lake and that it would cause substantial depreciation of the values of neighboring properties.

After discussion regarding determination of negative impact on property values, a roll call vote was taken: Rolfs – no, Harkness – no, Warner – yes, Biersach – no, Zlotocha – no, Zaiser – yes, Garnham – yes. Motion failed.

MOTION made by Biersach, seconded by Harkness to approve the application based on the findings in Section 5.03(6)(b). Commissioner Rolfs stated that he believed the residence would have an impact on the neighboring property owners, however, he did not

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feel it would depreciate the property values. Further, he stated that he did not feel the residence would have an impact on other homes on the lake.

Roll call vote taken: Garnham – no, Zaiser – no, Zlotocha – yes, Biersach – yes, Warner – no, Harkness – yes, Rolfs – no. Motion failed.

Village Attorney Krutz stated that the applicant would need to take further action as the issuance of a building permit had not been approved. It was discussed that the applicants options included to resubmit amended plans or appeal to the Board of Appeals. He also stated that based on discussions with the applicant's counsel, it was likely that the applicant would pursue the matter in Circuit Court.

MOTION made by Zaiser, seconded by Harkness to adjourn at 9:10 p.m.

Respectfully submitted,

Darlene Igl
Clerk/Treasurer

VILLAGE OF CHENEQUA
PLAN COMMISSION

MINUTES OF THE JUNE 15, 2004 MEETING

The meeting was called to order at 6:10 p.m. by Chairman Harkness.

Present: Chairman Harkness, Holly Warner, Peter Zlotocha, Carla Garnham, Andy Gehl. Also present Chief/Administrator Douglas, Building Inspector Tising, Clerk/Treasurer Igl and Village Attorney Krutz.

Plans for construction of an addition/remodel on the Richard and Susan Weaver property at 6275 N Oakland Hills Road were presented and reviewed. Chief/Administrator Douglas stated that this is a legal lot and that the plans meet all code requirements. MOTION made by Garnham, seconded by Warner to adopt the following resolution:

RESOLVED, that the Plan Commission finds as a fact after a view of the site of the proposed structure, and an examination of the application papers for a building permit, which shall include exterior elevations of the proposed structure, that the exterior architectural appeal and functional plan of the proposed structure and its location will, when erected, not be so at variance with nor so similar to the exterior architectural appeal and functional plan and location of the structures already constructed or in the course of construction in the immediate neighborhood as to cause a substantial depreciation in the property values of said neighborhood.

MOTION made by Warner, seconded by Harkness to approve the minutes of the June 1, 2004 meeting as amended. Motion carried.

Village Attorney Krutz updated the Plan Commission regarding discussions at the Village Board meeting regarding the Boucher application. The Village Board adopted a resolution directing the Plan Commission to make their findings at either the next regularly scheduled meeting or at a special meeting with the full Plan Commission in attendance.

Chairman Harkness reviewed his memo of June 7, 2004.

Village Attorney Krutz stated that the Village Board had also discussed holding a joint meeting of the Plan Commission and the Village Board to discuss future code revisions. It was also discussed that a three step process for building permit applications should be put in place.

Alternate Commissioner Gehl raised concerns regarding the language in the Code dealing with the duties of the Plan Commission and the basis of the findings. He was asked to put his concerns in writing and to submit them for consideration.

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Chairman Harkness stated that Village Board Trustee Kathy Seidel had provided language regarding lighting used in the Village of River Hills and that this item is to be placed on the next Plan Commission agenda. It was also requested that the issue of size and setback parameters be placed on the next agenda.

Commissioner Garnham stated that she felt that objectives to be used in the approval process need to be more clearly defined.

MOTION made by Harkness, seconded by Warner at 7:02 p.m.

Respectfully submitted,

Darlene Igl
Clerk/Treasurer