

Unapproved; date approved: _____

**VILLAGE OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
FEBRUARY 13, 2024**

PRESENT: Nancy Rogan, Chairperson
Gregory Cappelli, Member
Chad Neal, Member
Damon Newpher, Member

ALSO PRESENT: Gregory Keyser-Village Planner, Kelly Fredrickson-CEO, Aaron Tiller-Architect, Peter Roe-Rural Resurgence, Gary Fosbrink-11 McKinley Drive, Craig McIntyre-5 McKinley Drive, Kris Ewing-7 McKinley Drive, Blair Hamilton

AGENDA: VZP-2022- 081, 23 Parkside Drive, John Dickinson
Architectural Design Review-Amendment

VZP-2023-298- 16 Fillmore Drive, Jamel & Josie Perkins
Special Use Permit, Site Plan & Architectural Design
Review-Single family residence with apartment

VZP-2023-370- 37 Washington Street, Peter Kreinheder
Special Use Permit & Site Plan Review (Boutique motel)

VZP-2023-382- 41 Mill Street,Vogt Subdivision
Subdivision Amendment

VZP-2023-274- 41 Mill Street (Lot 4A), Rick & Joan Graci
Special Use Permit & Site Plan Review
Single family residence with apartment

VZP-2024-001- 11-15 Martha Street, Rural Resurgence
Special Use Permit & Site Plan Review
Retail Cannabis Establishment

VZP-2024-003- 1 West Washington Street, Town of Ellicottville
Historic & Architectural Design Review
Main Entry Improvements

DISCUSSION: Nancy Rogan, Chairperson called the meeting to order at 5:30 p.m. with four members present.

Mr. Craig McIntyre asked to be added to the agenda to address the Board with regard to the McKinley Drive Village Gate Subdivision.

Greg Keyser advised that in order to be on the agenda an application needs to be submitted.

Planning Board members agreed to hear his comments even though he would not be on the agenda..

Mr. McIntyre stated that Village Gate Subdivision was approved for identical townhomes. Currently there are still 4 vacant lots. In July 2023 the Planning Board approved a duplex unit on lots 10 & 12. It is his understanding that every subdivision is to be built with the same units. He noted that he met with Mr. Keyser, Mr. Fredrickson, Mayor Burrell, and Mr. Slotman about the problem. He was referred to Richard Stanton, Village Attorney, who advised that his only recourse was to file an Article 78 against the Village which he did in September. He has now been told that the statute of limitations ran out before the filing.

Greg Keyser advised that Mr. McIntyre is asking to be on the February 13, 2024 agenda. Mr. Keyser said he consulted the Village Attorney who advised that the Planning Board does not have guidance to address the issue without a proper application. Also the litigation was decided by the Court and Mr. McIntyre can file an appeal. It would be inappropriate for the Planning Board to talk about or answer questions with regard to Village Gate.

Craig McIntyre asked why is Village Gate being treated differently than any other subdivision in the Village? Is there a change in policy or was the duplex approved in error? What will happen on the other 4 lots? All 9 lots were to be townhomes. What is the plan?

Greg Keyser stated that the Planning Board's authority starts with an application. He suggested that Mr. McIntyre take the issue to the Village Board.

Nancy Rogan presented the agenda and asked for changes, additions or approval.

Greg Keyser asked to add the December 5, 2023 Work Session Minutes and the December 12, Planning Board Meeting Minutes to the agenda. He also noted that the Peter Kreinheder project is at 37 Washington Street not 370.

Chad Neal noted that the March 5, 2024 work session is at 4:30 pm not 5:30 pm.

The agenda was approved as corrected.

The Minutes of the December 5, 2023 Work Session and the December 12, 2023 Planning Board Meeting were read.

MOTION: Moved by Greg Cappelli to approve the Minutes of December 5, 2023 and December 12, 2023 as read. Seconded by Chad Neal. Vote 3-0. Carried.

The Minutes of the January 2, 2024 Work Session were read.

MOTION: Moved by Geg Cappelli to approve the Minutes of the January 2, 2024 Work Session as read. Seconded by Chad Neal. Vote 3–0. Carried.

DISCUSSION: Nancy Rogan presented 23 Parkside Drive, John Dickinson, Amendment to approved Architectural Design.

Greg Keyser advised that the Planning Board granted approvals on August 9, 2022 to allow the construction of a single-family residence with an accessory apartment. Upon inspection it was discovered that the structure was not built to the approved plans. Mr. Dickinson will be submitting new plans that reflect changes for the amendment to the Architectural Design.

MOTION: Moved by Greg Cappelli to table VZP-2022-081, 23 Parkside Drive, John Dickinson, Architectural Design amendment p-ending receipt of new design plans for review. Seconded by Damon Newpher. Vote 3-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2023-298, 16 Fillmore Drive, Jamel & Josie Perkins, Special Use Permit, Site Plan and Architectural Design Review of proposed single-family residence with an accessory apartment.

Greg Keyser presented the email from Keith Ewald of Barton & Loguidice suggesting that approval could be granted pending review and concurrence of B & L questions with the applicants engineer regarding the top of the basement wall, perimeter foundation drain pipe, waterstop, and maintaining the basement to a dry condition.

Mr. Keyser noted that the construction of a single family house with an accessory apartment is a Type 2 Action under SEQR Part 517.5 (c)(11). No further review under SEQR is required. The Planning Board should classify the project as a Type 2 Action before acting on the Special Use Permit, Site Plan and Architectural Design Review application.

Greg Cappelli asked if there needs to be a deed covenant for the floodplain issue?

Aaron Tiller advised that FEMA has removed the area from the 100-year floodplain boundary and has provided documentation. The applicant has submitted a letter to the Planning Board stating that Jamel & Josie Perkins accept the risk of constructing the basement and will hold the Village of Ellicottville harmless in the event of a high water event.

MOTION: Moved by Greg Cappelli that the construction of a single family house with an accessory apartment is a Type 2 Action under SEQR Part 617.5(c)(11). No further review under SEQR is required. Seconded by Chad Neal. Vote 3-0. Carried.

MOTION: Moved by Damon Newpher to grant Special Use Permit, Site Plan and Architectural Design Review approval for a single-family house with accessory apartment at 16 Fillmore Drive, as per materials submitted in VZP-2023-298 by Jamel & Josie Perkins, pending resolution of all concerns and questions by Barton & Loguidice from the applicants engineer. Seconded by Greg Cappelli. Vote 3–0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2023-370, 37 Washington Street, Peter Kreinheder, Special Use Permit and Site Plan Review of boutique motel.

Greg Keyer presented this application seeking approval for a change of use to establish a 2 room boutique motel in an existing vacant building located in the VC-1 District. A 30-foot lobby area with kitchen and bathroom are proposed on the first floor with 2 bedrooms with a shared bathroom on the second floor. Adequate parking is provided.

The project meets the definition of a Type 2 SEQR Action involving the reuse of a commercial structure where the proposed use is permitted as of right or by a special use permit. The Planning Board should classify this project as a Type 2 Action before acting on the application.

If the Planning Board feels the application is complete a public hearing can be set for the March meeting.

MOTION: Moved by Greg Cappelli to set a public hearing for VZP-2023-370, 37 Washington Street, Peter Kreinheder, Special Use Permit and Site Plan Review of Boutique motel for March 12, 2024 at 5:30 p.m. Seconded by Damon Newpher. Vote 3-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2023-382, 41 Mill Street, Phil Vogt, Subdivision Amendment.

Greg Keyser presented this application requesting a subdivision amendment to remove current conditions and allow the construction of single family residences on an individual lot basis.

The Vogt Mill Street development was approved in 2016 as part of a 3 lot minor subdivision, which included special use permit, site plan review and architectural design review to allow the construction of 3 duplexes (one on each lot). One duplex was built in 2016. Mr. Vogt now wants to amend the subdivision to sell the remaining lots for single-family residences.

Aaron Tiller presented the revised site plan showing the change of the driveway to the front of the lots. The sewer and water lines locations and contour of the land have not changed.

Mr. Keyser noted that the changes in the site plan are substantial and a public hearing should be scheduled if the Planning Board feels the application is complete.

MOTION: Moved by Greg Cappelli to set a public hearing for VZP-2023-382, 41 Mill Street, Phil Vogt Subdivision Amendment for March 12, 2024 at 5:30 p.m. Seconded by Damon Newpher. Vote 3-0. Carried.

DISCUSSION Nancy Rogan presented VZP-2023-274, Richard & Joan Graci, Special Use Permit, Site Plan and Architectural Design Review of proposed single family residence with accessory apartment.

Greg Keyser advised that a revised site plan and drawings have been submitted for a 3,200 square foot residence. This application is pending on the approval of the amendment to the Vogt Mill Street Development to allow single-family houses in the previously approved 3 lot duplex subdivision. If the Planning Board feels the application is complete a public hearing can be set for the March meeting.

MOTION: Moved by Chad Neal to set a public hearing for VZP-2023-274, Richard & Joan Graci, Special Use Permit, Site Plan and Architectural Design Review of proposed single family residence with accessory apartment for March 12, 2024 at 5:30 p.m. Seconded by Greg Cappelli. Vote 3-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2024-001, 11–15 Martha Street, Rural Resurgence, Special Use Permit, Site Plan Review for change in use to allow the establishment of a Cannabis Retail Dispensary.

Greg Keyser advised that the applicant plans to lease the space currently used by Bike & Bean which is closing at the end of February. Cannabis Retail Dispensaries are allowed in the VC-2 District as a Conditional Use. The project meets the definition of a Type 2 SEQR Action involving the reuse of a commercial structure where the proposed use is permitted as of right or by a special use permit. The Planning Board should classify the project as a Type 2 Action before acting on the application.

If the Planning Board feels the application is complete a public hearing can be set for the March meeting.

Mr. Keyser asked Peter Roe to provide a copy of the NY State license for the Village files. Nancy Rogan noted that approval will be with the condition that the license is provided. Mr. Roe agreed to provide the requested documentation.

MOTION: Moved by Greg Cappelli to set a public hearing for VZP-2024-001, 11-15 Martha Street, Rural Resurgence, Special Use Permit and Site Plan Review for change in use to allow the establishment of a Cannabis Retail Dispensary for March 12, 2024 at 5:30 p.m. Seconded by Damon Newpher. Vote 3-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2024-002, 1 W. Washington Street, Ellicottville Town Hall, Historic District and Architectural Design Review of improvements to the front entrance of the Town Hall.

Greg Keyser presented the proposal to replace the front entry door with a new frame, door, transom assembly, hardware and lockable steel mailbox slot mounted in the sidelite framing.

The existing signage mounted above the entry door will be removed and replaced with a new post-mounted sign in the front lawn area east of the main entry. The brick behind the removed sign will be cleaned, and if necessary, re-pointed to match adjacent mortar color and character. The Town Hall is in the VC-1 District and the Historic District.

The project meets the definition of a Type 2 SEQR Action involving the maintenance and repair with no substantial changes to the existing building. The Planning Board should classify the project as a Type 2 SEQR Action before acting on the application.

The Town is working with a qualified consultant and has obtained “No Adverse Impact” determination from the New York State Historic Preservation Office.

If the Planning Board feels the application is complete a public hearing can be set for the March meeting.

MOTION: Moved by Damon Newpher to set a public hearing for VZP–2024–0-02, 1 W. Washington Street, Ellicottville Town Hall Architectural Design and Historic District Review for March 12, 2024 at 5:30 p.m. Seconded by Chad Neal. Vote3-0. Carried.

MOTION: Moved by Chad Neal to adjourn at 6:30 p.m. Seconded by Damon Newpher. Vote 3-0. Carried.

Submitted by: Donna Baldwin, Secretary