

A regular meeting of the Planning Board of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on November 17, 2015 at 4:30 p.m. Members in attendance were Chair – Eugene Berman, Richard Blabey, Paul Kuhn, Joe Membrino, and Richard Sternberg. ZEO Tavis Austin and Deputy Village Clerk – Jennifer Truax were also present. There were two members of the public present.

Mr. Berman called the meeting to order at 4:30 p.m.

Minutes

Dr. Sternberg pointed out a typographical error on page 2, paragraph 3, line 3, the word walled should be walked.

Mr. Kuhn made a motion to approve the minutes from the September 15, 2015 meeting with the following correction: page 2, paragraph 3, line 3, the word walled be changed to walked. Dr. Sternberg seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Sternberg

ABSTAIN: Membrino

Motion carried.

Regular Agenda

21 Railroad Avenue (Weinell) – proposed wall and projecting signs

Mr. Berman asked that the board hold off on this item until Mr. Austin arrives so that he can provide information regarding the proposal.

Review of Village Tree Laws

Mr. Berman provided the members of the board with copies of Village Code Chapter 258 and Zoning Law § 300-31. Mr. Berman stated that the Board of Trustee asked that the Planning Board review those laws and recommend changes to eliminate the inconsistencies concerning tree removal. He reviewed both laws and recommended that section 258-6 and portions of section 258-7 be deleted.

Dr. Sternberg asked if leaving these sections of the law is detrimental.

Mr. Berman stated that the Tree and Zoning Law sections have conflicting provisions. He continued to state that trees on privately owned property should be addressed in the Zoning Law in Chapter 300, rather than in Chapter 258.

Mr. Blabey stated that it becomes problematic to cite the same law in different places. He explained that a simple word change can cause misinterpretation and that when laws are amended a change can be missed.

Mr. Membrino asked if the tree ordinance is independent of the zoning law.

Mr. Berman stated that it is. He further stated that the goal is to make the law consistent and not duplicate it. He explained his proposed changes.

The board reviewed Mr. Berman's proposed changes.

Mr. Membrino questioned whether section 258-6(C) was a liability issue for the Village. He questioned if the law would hold the Village liability in a situation such as a limb falling on a parked car. He suggested that he is not sure that this section needs to be part of the law as it is common knowledge that vegetation which projects over a property line can be trimmed back by the property owner it projects onto. He stated that there is probably case law which cites this.

The board discussed scenarios where property owners could trim vegetation and if citing this in the law would be detrimental or helpful.

Mr. Berman recommended the deletion of 258-6 in its entirety, with the recommendation that the Village Attorney review subsection C to determine if it should be retained in the law.

Mr. Membrino reviewed section 258-5(B) stating that although care of village trees is suggested it is not enforced. He questioned whether or not it was relevant to the law.

Mr. Austin stated that this section provides the Village with some legal standing to fine persons who damage or kill village trees. He stated that there are cases where property owners have killed trees through causing damage from weed wacking. This section of the law would give the village legal standing to go after that individual property owner for restitution.

Mr. Blabey stated that although the tree lawn is owned by the Village and the trees which are planted in this area are planted by the village, it is the responsibility of the adjacent property owner to care and do general maintenance in this area.

Mr. Austin stated that depending on whether or not the Village Attorney feels it is necessary to have the law to protect the Village's investment should determine the need for this section of the law. Mr. Austin continued to state that this law is similar to the law regarding clearing of snow and ice from sidewalk. That law gives the Village the right to bill the property owner if Village resources are used to clear the sidewalk when the property owner has not attended to the sidewalk in the time period given.

Mr. Membrino stated that the easiest place to start is to just make the two provisions consistent with each other.

Mr. Austin reviewed the areas of concern regarding the tree law including, the lack of a definition of tree. He stated that based on the current law there is a question as to whether or not some large shrubs in the village constitute trees. He pointed out that the existing law is problematic as it does not allow for any tree removal for a residence with less than four trees, or for the removal of stumps. He asked the board what the village is trying to protect with the tree law. He stated that until the objective is clear it is difficult to write a coherent law.

Mr. Blabey stated that not only does the purpose need to be clear and easily understood so does the law. He continued to state that residents need to understand the law and the intent of the law.

The board reviewed the intent of the law as currently written.

Mr. Austin stated that Chapter 258 is for the protection of the investment made by the village.

Mr. Blabey stated that he thinks that it might be appropriate to be more specific, as he feels that some trees are worth protecting and some should be at the discretion of the property owner.

Mr. Kuhn stated that developing a list of “worthy” trees would be impossible. He explained that what one person values in a tree is different than what another person values and there is no way that the board could ever come to a consensus on what species of tree is worth protecting.

Mr. Austin proposed that maybe the law should only look at trees within the front façade of a property and leave the rear yards at the discretion of the property owner.

Mr. Blabey stated that some trees mature in 20 years while others take over 100 years. He explained that the trees which take longer to mature are more valuable as they are more difficult to replace.

Mr. Membrino stated that it might be beneficial to confer with the tree committee prior to making any decision.

Mr. Berman stated that he attended a meeting of the tree committee several months ago but that he has not received any recommendations. He added that the Tree Committee has not held regular meetings for a few months.

Mr. Membrino made a motion recommend that the Board of Trustees remove section 258-6 from the existing law and retitle section 258 “Public Trees.” Mr. Kuhn seconded the motion and a vote had the following discussion.

The board discussed the implications of the title of section 258, including use of trees in public space, Village trees, and public trees.

Mr. Membrino amended his motion to read motion to recommend that the Board of Trustees remove section 258-6 from the existing law and retitle section 258 “Trees on Village Property.” Mr. Kuhn seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Sternberg

Motion carried.

21 Railroad Avenue (Weinell) – proposed wall and projecting signs

Mr. Austin reviewed the application for wall and projecting signs. He explained that the property at 21 Railroad Avenue has a Master Sign Plan which allows for the wall sign as submitted. He continued to state that the Master Sign Plan does not allow for projecting signs but rather for placement of a plaque for each business on the freestanding sign at the front of the property. He stated that the board may choose to amend the plan, approve as submitted, or approve one sign while denying the other. Mr. Austin pointed out that the projecting sign does not meet the required 8’ clearance but does have a bench placed under the sign which would prevent pedestrians from walking directly under the sign. He stated that other properties have been granted approval for projecting signs with less than 8’ of clearance given that some object is placed under the sign to prevent pedestrian traffic from going under the sign.

Mr. Blabey pointed out that the sign law does not allow for a projecting and freestanding sign for the same business.

Mr. Austin stated that the business is not proposing both but just a projecting sign.

Dr. Sternberg stated that he does not feel that the proposed bench below the projecting sign is equivalent to the planter which was placed below a previously approved projecting sign. He stated that he feels that the projecting sign as submitted is a safety issue that should and can be denied solely on that factor. He continued to state that the placement is ridiculous and invites an injury.

Mr. Kuhn stated that he objects to the projecting sign. He explained that the Planning Board worked diligently with Mr. Manno to create a master signage plan that was fair to all tenants of this building. He continued to state that to reverse that decision is a betrayal of the existing tenants. Mr. Kuhn stated that he feels that the Planning Board should not vary from the master signage plan. He further stated that should the developer wish to change the plan that he should apply for an overall change which would be equal to all tenants.

The board reviewed the complete master signage plan for 21 Railroad Avenue as previously approved.

Dr. Sternberg stated that he feels that the proposed sign should be denied on safety issues alone. He stated that there is no reason to review any additional information as the sign as submitted is a safety concern.

Mr. Austin stated that if denied at this height the applicant can resubmit with an increase in height and the discussion would then continue.

Dr. Sternberg stated that at that time the discussion may be necessary but based on the current application there is no need for further review.

Mr. Berman stated that the application indicates two signs, a projecting sign and a wall sign. He further stated that the wall sign does not need consideration as it meets the pre-established criteria of the master sign plan for this property.

The board concurred that only the projecting sign needs action.

Mr. Berman stated that the application does not provide sufficient clearance for a projecting sign and should be rejected.

Mr. Weinell stated that he could resubmit the application with sufficient clearance but it would depend on the board's opinion. He explained that he considers himself lucky to have his business in Cooperstown. He further explained that the Village officials and property owners take tremendous care of the village. He stated that the appearance of the streets, properties and structures are impressive and he does not want to do anything that the board feels is not in keeping with the neighborhood but he is also happy to raise the sign to the appropriate clearance.

Dr. Sternberg made a motion to deny the application for a projecting sign at 21 Railroad Avenue as submitted. Mr. Blabey seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Sternberg

Motion carried.

Mr. Membrino stated that the master signage plan is an extensive application with great consideration to signage for the building. He further stated that should the board allow the

projecting sign for this business they would need to entertain projecting signs for all of the other businesses at this location.

Dr. Sternberg concurred. He stated that the master signage plan is effective and took great consideration to develop. He continued to state that there is no reason to throw it out now.

The board continued to discuss projecting signs in place of the plaques on the freestanding sign.

Mr. Blabey stated that if Mr. Manno would like a modification to the master sign plan he feels that it should be considered by the board but he does not feel that the board should tweak the plan for one tenant.

Mr. Membrino asked Mr. Weinell if he was aware of the master sign plan when the lease was signed.

Mr. Weinell stated that he was not.

Mr. Membrino asked Mr. Weinell if he looked at the space and got a feel for the building prior to signing the lease.

Mr. Weinell stated that he had.

Mr. Membrino stated that given Mr. Weinell viewed the space he must have been aware of the consistent signage that was in place. He stated that the master sign plan is like a zoning overlay and he does not see it hurting any tenant if followed. He further stated that he does not feel that it is appropriate to create a variance to the master sign plan.

Mr. Austin asked Mr. Weinell if he would be amenable to the wall sign and a plaque on the freestanding sign.

Mr. Weinell stated that he would be okay with that.

Mr. Austin informed Mr. Weinell of the specific conditions and requirements set forth by the master sign plan.

Continued Review of Village Tree Laws

Mr. Berman stated that in order to be consistent in addition to removing section 258-6, section 258-7(A) should be amended. He reviewed the proposed amendments.

Dr. Sternberg made a motion to recommend that the Board of Trustees remove the first sentence of section 258-7(A) and the words "all other" from the second sentence of section 258-7(A) Mr. Membrino seconded the motion and the following discussion was held.

Mr. Blabey questioned section 258-7 Enforcement. He asked if it was appropriate as it is the Village Law regarding Village trees.

Mr. Membrino suggested changing the section's title to Implementation.

The board discussed the title and relevance of this section of the law.

district, the Planning Board would be able to grant permission for removal of any or all trees as part of their review.

Mr. Berman pointed out that the Planning Boards ability to allow tree removal during site development plan review is part of the PDD Law which the BOT is in the process of reviewing and will consider during their November meeting.

The board discussed situations where residential development could take place and how the tree law would affect it.

Mr. Blabey asked if a tree law was truly necessary.

Dr. Sternberg stated that he felt it was.

Mr. Austin asked, if there wasn't a tree law, how many property owners would actually remove all of the trees from their properties.

Mr. Kuhn stated that the number is greater than one might think. He continued to state that he knows of many people who don't like trees and would clear cut their property if allowed.

Dr. Sternberg stated that if a property owner were to clear cut their property it would drastically affect the aesthetics of the village.

Mr. Kuhn stated that he does not see any hardship created by the current requirement of 30 percent. He continued to state that it can be a complex issue and if the owner is cutting more than 30 percent they can apply for a variance.

Mr. Membrino stated that we have a solution which is in search of a problem. He explained that street trees are a unifying factor in the village and neighborhoods. He continued to state that the current zoning law regarding trees is not perfect but it is also not a hardship.

Mr. Austin stated that in his tenure at the Village the zoning law regarding trees has worked. He continued to state that the recent anomaly which drew out the conflicting section of law was what created a big issue.

Mr. Membrino stated that the current zoning law regarding trees, section 300-31 is acceptable and workable.

Mr. Blabey asked how the current zoning law regarding trees would handle the situation at 124 Main Street.

Mr. Austin stated that the consensus with the Village Attorney was that anyone proposing removal of trees needs to bring an application into the village office for review by a staff member prior to the removal of the trees.

Mr. Blabey asked how the removal of trees is tracked from year to year as the law only allows for the removal of 30 percent every 10 years.

Mr. Austin stated that each request would be compared to the last and would require some sort of plan which would be updated.

Mr. Membrino stated that he feels that the existing tree section of the zoning law is acceptable. He further stated that the conflict has been dealt with through the removal of section 258-6 and the existing law provides for the process.

Mr. Austin suggested the addition of specific dimensions.

Dr. Sternberg stated that he feels it is appropriate to increase the current language of 6" in diameter with something larger. He stated that he has over 100 trees on his property and he could easily take down the nicer trees and leave less desirable trees and never hit the 30 percent.

Mr. Kuhn stated that he does not have an issue with increasing the diameter but he does not want to change the concept of the law.

Mr. Berman suggested changing 30 percent to one-third and include the removal of tree stumps to the last sentence of section 300-31(C).

The board further discussed the appropriate diameter and percentage of removal.

Mr. Kuhn made a motion to recommend that the Board of Trustees change the language of section 300-31 of the zoning law to increase the tree girth from 6" to 12", the percentage of trees allowed to be removed from 30 percent to 33.3 percent or one third and the point of measurement to be DBH or diameter at breast height according to standard forestry practice.

No second was provided and further discussion was held.

Mr. Membrino asked about the situation at 124 Main Street and if they would have been legally able to remove the trees under section 300-31.

Dr. Sternberg stated that they could have received permission to remove the trees as part of the site development plan review.

Mr. Austin stated that 124 Main Street had a tree professional determine that the trees were dangerous and or diseased. At that point, based on the law, the property owner moved ahead with the removal of greater than 30 percent as they interpreted the law to read that if the trees were dangerous or diseased no action by the village was necessary.

Mr. Berman suggested that language may be needed to indicate that the ZEO can review and approve the removal of trees.

Mr. Membrino stated that he feels that before moving forward with any proposed changes the board needs additional time to consider the effects of any proposed change. He stated that with the conflict resolved the existing law is workable until further action is taken.

The board concurred.

Mr. Austin suggested that an application for tree removal not have any fee associated with it in order to be more proactive in getting property owners to follow the laws as set forth.

Other Business:

Mr. Berman asked about the new signage at Green & Green.

Mr. Austin stated that the signs had been reviewed and received approval.

Mr. Blabey asked about the blinking Stop Sign in the residential district near the elementary school.

Mr. Austin stated that he has received several complaints about this sign and he did take the concerns to the Public Safety Committee. He reported that the Public Safety Committee informed him that the crossing guard had reported several close calls in this area during school hours and the stop sign was installed as a safety precaution. Mr. Austin stated that he questioned whether or not the sign could be put on a timer or have an on/off switch installed to limit when the sign is in operation but he was informed that was not possible as the sign is solar powered and will be in operation 24 hours per day 365 days per year.

Several board members felt that the sign could be an added distraction to drivers and that it was offensive in a residential area.

Meeting adjourned at 6:15 PM

Respectfully submitted,

Jennifer Truax
Deputy Clerk