

**Members Present:**

Peter Klose (Chairman)  
Daniel Jean-Gilles

Peter Voletsky  
Alan Englander

**Absent:** Glen E. Keene

**Also Present:**

Walter Sevastian, Village Attorney  
Don Yacopino, Building Inspector  
Bob Galvin—Village Planner (present)

**Other Business:**

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the July 2013 Minutes, there being no meeting in August 2013. Passed 4-0.

**1. 166 Cedar Hill Avenue. Paul Roszypal. Continuation of application for a two lot subdivision.**

*Building Inspector-- ZBA granted variance for two lots of 4,881.5sf where 5,000sf is required and east front yard on lot #2 19.52 ft where 20 ft is required. It does not appear that a SEQRA determination has been made, or that the PB has declared itself lead agency. Per VON§360-5.8(4)(c) a preliminary plat is not considered to be complete until a negative declaration has been filed or until a notice of completion of draft environmental impact statement is filed.*

Note by the Building Inspector is incorrect--Planning Board declared intent to be Lead Agent-- July 2012- The SEQRA determination has not expired so we will consider the Site Impacts under SEQRA-- The Village Planner completed Part II of the Long Form EAF-- found no impacts -- Unlisted action-- recommends finding a negative declaration. We agree that this is a minor subdivision with little impact on neighborhood or the criteria found in the EAF.

ZBA findings provided conditions-- existing home to remain, second home may not be higher than the existing and must be single family home-- these should be added to the Certificates of Occupancy. The Planner analyzed all of the surrounding properties, and completed the Coastal Assessment Form-- accordingly we are in a position to make the determination that it is consistent. Planning Board now in a position to make negative declaration (prepared by Planner) conformity with LWRP and Coastal Assessment Form and (3) preliminary and final plot plan approval.

**Public Comment--** Ann Otianno - owns 180 Cedar Hill -- side lot which should not be developed upon. Applicant had appeared on various occasions in the past-- Planning Board made positive recommendation to accept the requested variance.

Wendy Kaye 105 Cedar Hill -- same concerns.

Motion by Chairman Klose to close the public hearing, seconded by Voletsky. Motion passed by vote of 4-0.

Planning Board will take lead agency status as to the Sub-Division and make a finding.

The Board has considered the EAF forms prepared by the Planner-- and hereby determines that there are no significant environmental impacts identified by the full EAF, and adopts the Neg Dec., dated September 9, 2013; specifically that the application is consistent with the LWRP and there are no significant impacts; Accordingly, subject to the reasonable conditions imposed by the ZBA and ARB, this board hereby grants preliminary and final plat approval for the sub-division dated 4-17-12 (with Site Plan issues for each lot remaining open). Second by Voletsky (4-0). Chairman is hereby authorized to sign the Plat upon signatures by applicable entities and individuals. Vote Approved 4-0.

Applicant shall return upon site plan application.

**2. 282 High Avenue. Elzee Realty Corp. Property is in RMU Zoning District. Application for a second floor front addition, the installation of vinyl siding and recommendation to Zoning Board of Appeals.**

*Building Inspector--The following pre existing dimensional and developmental standards are nonconforming: Minimum lot area of 3,763sf where 7,500sf is required; Minimum side yard of 1 ft where 5 ft is required. Minimum both side yard setbacks of 16.1 ft where 20 ft is required.*

*Per Article I VON § 360-1.9E Nonconforming buildings. The alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and development standards, as specified in Article IV of this chapter, shall require a variance from the Zoning Board of Appeals. The increase in the height of a wall or roof that is nonconforming is prohibited.*

*An area variance is required from Article IV VON 360§-4.3 Table 4-1§ Applicant appeared before ARB in July 2013, will return with design changes 9/2013.*

Eliot Zisman- appeared- second floor expansion-- 2.5 feet-- current foot print-- met with the ARB- and agreed to incorporate the ARB recommendations-- Incorporated the comments into a second set of plans-- wanted full seven (7 feet) ARB asked to keep the expansion to 2.5 feet-- which would still maintain a set back look. Applicant accepted the ARB suggestion of the extra 2.5 feet and is satisfied by the recommended -- third bedroom upstairs level. This neighborhood composed largely of small houses close to the street-- all located close to the street-- all of the houses on the street are close the side yards. No complaints from neighbors - ARB to continue to review.

Type II Action for SEQRA-- there is an existing metal shed-- applicant to either replace or repair.

Nothing overly significant from the perspective of the Planning Department's review of the neighborhood, size, characteristics of the proposed addition, which seems reasonable in terms of parking, screening, site lines, and other Planning issues. It is noted that this is a Type 2 SEQRA - no action required.

**Public Comment -- None**

Motion by Chairman Klose to close the public hearing, second by Voletsky and motion approved by a vote of 4-0.

**Board --**Member Klose moves (Seconded by Englander) to make a positive recommendation to the ZBA to grant the requested variances (1) allowing pre-existing dimensional and developmental standards which were nonconforming: Minimum lot area of 3763sf where 7500sf is required; Minimum side yard of 1 ft where 5 ft is required. Minimum both side yard setbacks of 16.1 ft where 20 ft is required. Motion approved by VOTE 4-0-- to recommend the requested variance, subject to the conditions above stated, and any reasonable conditions imposed by the ARB or ZBA. NB--NO SITE PLAN APPROVALS sought or granted-- site plan remains open.

**3. 8 Hart Place. Cynthia Turner. Application for the removal of two significant trees. Applicant's Arborist's letter included.** Applicant wants more sun -- argues that these large specimen trees should come down because they drop leaves and block the sun-- wants to have to stop the mildew and mold-- tired of the maintenance from mold and mildew. The two (2) apparently fully healthy trees are: 1) Shag Bark Hickory -- very expensive and beautiful tree in the front yard visible along much of Hart Place and 2). Another large mature tree- an Oak tree located beyond the applicant's house. Applicant states that the roots of the tree in the rear have lifted up the patio and that there is also a lot of tree debris in front and back from these trees and that the trees are responsible for -- mold and mildew on or about the exterior of the house. Applicant also points out that there are other trees-- dogwood trees in the front of the house-- other trees on the property. There was some discussion that these issues appear to place homeowner rights against the village rights.

There is a comprehensive plan under the Newly revised code to address when and how the Planning Board should consider the removal of specimen trees. Applicant objects to the Village imposing any conditions on the trees on their property and when asked what mitigation they would consider to replace any trees that might be removed, offered none stating that there was already lots of landscaping in the yard. Applicant argues that she has invested a lot of money into landscaping and converted the house to a one family--and needs to remove the trees so that her family can enjoy the use of the house and the yard and reduce mold and algae growing on the pavement. All members are concerned about the removal of such beautiful mature and with respect to the Hickory tree a growingly rare tree. Planner suggested that the Village Arborist

have a look and devise some strategies to better understand this application and possibly develop strategies or recommendations that might mitigate the situation. Type II action for SEQRA.

Planner recommended that a professional look at the situation and discuss the situation. Legislation says that there are certain standards that must be set the law.

Code 360-5.18 (Tree Removal Permit) provides:

Criteria. Where an application is submitted to the Planning Board to remove a significant tree, said permit may be granted only for the following reasons and under the following conditions:

(4) Upon the express written finding of an arborist licensed in the State of New York that the proposed significant tree removal will not result in or cause, increase or aggravate any of the following conditions: impaired growth or development of the remaining trees or shrubs on the property of the applicant or upon adjacent property, soil erosion, sedimentation or dust, drainage or sewerage problems, or any other dangerous or hazardous condition, and only if a significant tree or trees to be removed are replaced elsewhere on the property or in the immediate neighborhood.

(5) Where the tree removal would not:

(a) Have an adverse impact upon existing biological and ecological systems.

(b) Affect noise pollution by temporarily increasing noise levels to such a degree that a public nuisance may be anticipated or by significantly reducing the noise dampening effect of vegetation near sensitive noise receptors.

(c) Affect air quality by significantly affecting the natural cleansing of the atmosphere by vegetation.

(d) Affect wildlife habitat available for wildlife existence and reproduction by causing emigration of wildlife to adjacent or associated ecosystems, and only if significant tree or trees to be removed are replaced elsewhere on the property or in the immediate neighborhood.

Code 360-4.4 ( c) the community hereby enacts the following legislation:

(a) To preserve an important attribute of the Village, by encouraging owners of existing developed lands, and developers of lands, to save or replace as many native and mature tree species as possible when making improvements to real property;

(b) To control and regulate indiscriminate and excessive removal, cutting and destruction of trees in order to regulate and prevent conditions which result in increased surface runoff, soil erosion and decreased soil fertility;

(c) To maintain the stability and value of real property by preserving existing woodland aesthetics;

(g) To comply with the requirements of the 2003 EPA Stormwater Phase II of the Clean Water Act by identifying trees as "green infrastructure" and accounting for the water cleaning function they provide, and including their protection as part of the Village's Stormwater Management Plan in Chapter 295 and in § 360-4.12.

This Board may grant exceptions:

(c) Exceptions. Upon written application to the Planning Board, the Board may, by resolution, grant an exception from any of the requirements of this chapter as may be reasonable and within the purposes and intent of this chapter if the enforcement of one or more of the provisions is impractical or will exact undue hardship because of specific conditions pertaining to the property in question, and only if a significant tree or trees to be removed are replaced elsewhere on the property or in the immediate neighborhood. The Planning Board may grant an exception from this chapter where the significant trees are to be removed in accordance with a landscaping plan approved as part of a subdivision or site plan application.

Plan remains open-- the applicant will meet with the Village arborist and thereafter the Village Arborist is expected make a report with recommendations considering both alternatives to removal and/or plan (s) that would mitigate the impact of removal of such specimen trees.

**Public-- NONE**

Applicant to return.

Motion to adjourn by Member Klose, seconded by member Voletsky. Vote 4-0. Meeting adjourned at 8:35pm.