

Minutes of the Special Meeting
Board of Trustees of the
Village of Larchmont held on
Wednesday, February 17, 2016

PRESENT: Mayor Anne McAndrews
Deputy Mayor Lorraine Walsh
Trustees John Komar
Peter Fanelli

ABSENT: Trustee Marlene Kolbert

Also Present: Dep. Clerk Riley, Attorney Staudt, Administrator Datino
and Joanna C. Feldman, Esq., representing the Village Attorney's office.

Mayor McAndrews called the meeting to order at 7:33 PM.

Attorney Staudt said that before the Board is a variance application on the Temporary Moratorium filed by Cuddy and Feder on behalf of the developer of 40 Ocean Properties. Cuddy and Feder filed the original application which was forwarded to the Village's planning consultant. A second one consisting of transcripts arrived yesterday and a letter from Site Designs Consultants was received today. He further stated that this meeting will be conducted like a Zoning Board of Appeals meeting. If there are questions they should be addressed to the Board not the applicant.

Joel Sachs of Keane and Beane, representing Preserve Larchmont asked why the second application and the letter from Site Designs Consultants were not posted on the Village website. Attorney Staudt replied with the speed things have been moving at and a tight timetable, those documents were unable to be added to the website but will be. Anyone who has been unable to review these documents will be given time to respond.

On motion of Trustee Walsh, seconded by Trustee Fanelli, and unanimously carried, it was:

RESOLVED, that the Public Hearing on an application of the Moratorium on Certain Land Use Applications (L.L. No. 1-2016) re: 40 Ocean Avenue be opened.

Lucia Chiocchio of Cuddy and Feder representing the applicant, 40 Ocean Properties, was next to address the Board on the application. She began by citing Section 8 of the moratorium law which authorizes the Board to waive application of the moratorium when it results in an unnecessary hardship per the standards set in Section 8 of the moratorium law. She continued with a brief history of the application process with the Building Department. Ms. Chiocchio added that on January 11th the Village adopted the moratorium law which halted all demolition and subdivision applications including pending applications. Ms. Chiocchio then stated that the background and facts leading to the moratorium that it was adopted to prohibit this specific project for 40 Ocean Avenue.

RESOLUTION

Open Public Hearing
Appeal of Moratorium
L.L. No. 1-2016
40 Ocean Avenue

Chiocchio, L.
Cuddy & Feder

Ms. Chiochio said the applicant put forth a considerable amount of time, money, resources and would have not done so if they knew the moratorium was coming. The project is fully conforming with zoning code requirements. She continued with pointing out the positive aspects of the project like each home fitting in with the consistency of the neighborhood, environmental conformity and the benefit to the local tax base. The proposed property at 40 Ocean Avenue is out of character with the neighborhood and the proposed subdivision is more in character. The project will result in lots that are larger than approximately 75% of the properties neighborhood.

Ms. Chiochio said that granting this waiver, the Board will not be setting a precedent. This application and project is the only one in the neighborhood where demolition and subdivision applications were submitted prior to the moratorium being adopted.

Ms. Chiochio concluded this project is fully conforming with the code. She thanked the Board for their time.

Sachs, J.
Keane & Beane
Preserve Larchmont

Next to speak to the Board was Joel Sachs from Keane and Beane representing Preserve Larchmont. He was going to present the Board with two report letters this evening.

Mr. Sachs said Preserve Larchmont was pleased with the moratorium. He added contrary to what the Board heard from the applicant, the purpose of the moratorium was not to stop development but rather to take a look at zoning laws and Village policies. He continued that in his letter that this application by 40 Avenue should not be given a waiver.

Mr. Sachs said he questioned if the applicant has standing the building inspector by the applicant around December 7, 2015. In a letter dated December 16, by the building inspector which indicated that the submission by the applicant in support of the building permit was woefully inadequate. There are 6 or 7 different types of information required to be submitted to the building inspector by the applicant. The building inspector indicated that they were not submitted to him. The environmental assessment form submitted by the applicant to the building inspector, was a form that has not been effect in New York State for two years.

Mr. Sachs stated that the applicant within in the past two weeks commenced a separate law suit against the Board of Trustees in the Westchester County Supreme Court saying the entire moratorium is unconstitutional and invalid and should be thrown out by the court. On the issue of unnecessary hardship, Mr. Sachs said there is no proof of unnecessary hardship. He reminded the Board that under the moratorium law, they have complete legislative discretion to grant or deny the variance.

Mr. Sachs distributed another letter from Planning Consultants, Parish & Weiner that concludes that there has been no unnecessary hardship by the applicant.

Village resident, Aaron Welsh asked what independent environmental reviews have been done. Attorney Staudt said the Village's planning consultant has begun work and will advise the Village of what degree of study will be needed. Trustee Walsh added that on Monday, February 29th in the Village Center, the planning consultant, Richard Preiss, will hold a community meeting where residents may ask questions on this subject.

Welsh, A

Next to address the Board was John Coughlin of 3 Margaret Lane. He asked what liability taxpayers may incur as the result of this moratorium. Attorney Staudt said he doesn't see any potential liability. The Village has undertaken a land use process that is nothing out of the ordinary that municipalities don't do all the time. He added that as to any law suit filed he would let the applicant speak on that and what they expect from it. At this time the Village has no comment on that.

Coughlin, J.

Attorney Staudt then asked if the applicant would like to comment on any law suit they have filed. The applicant responded they have no comment at this time.

Attorney Staudt said that under the terms statute the Board has the right to receive input from the Planning Board. In anticipation of that, the Village Administrator has spoken to the Planning Board chair that the Board may request Planning's input and when a meeting could possibly be arranged. Attorney Staudt then advised the Board to discuss whether they would seek input from the Planning Board on this variance application.

Mayor McAndrews said that it is the sense of the Board to ask for input from the Planning Board and requested the Administrator for a date of a possible meeting.

Attorney Staudt said the meeting date was for if the Board wanted Planning's opinion.

Trustee Walsh stated that in order to give due process to both sides of the argument, the Board should hear from the Planning Board.

Administrator Datino said he has spoken to the Planning Board chair who said he could get a quorum on February 22nd to review the appeal application and give feedback to the Board.

Attorney Staudt asked the applicant if they have submitted the entire building department submission of theirs so it can become part of the record of this proceeding. The applicant indicated that would be acceptable.

Attorney Staudt asked if the Board if they wanted the Administrator to distribute the application to other Village departments for their input.

Mayor McAndrews said in the interest to have the best record to examine and deliberate on, it should be distributed to other agencies and staff for comment. Attorney Staudt asked if the rest of the Board agreed. The Board indicated they agreed with the Mayor.

Attorney Staudt then addressed the scheduling of a meeting after this evening's is adjourned to allow Mr. Sachs time to review the submission he has not seen. It would also have to give time to the applicant to review the submissions of Mr. Sachs. Also if the Planning Board meets on the 22nd time will have to be given for their determination and Board review. He added the Village is under a tight timetable to get this hearing done.

The Board agreed to meet on Thursday, February 25th, at 7:30 PM, to continue this public hearing.

Attorney Staudt asked both representatives that any submissions for the February 25th meeting, that they would e-mail them to each other and submit them to the Village by February 23rd. He welcomed them to attend the Planning Board meeting on the 22nd and if the Planning Board issues a written report the Village will get it to the representatives as soon as possible.

Mayor McAndrews asked Administrator Datino where the Planning Board meeting on February 22nd will take place. Administrator Datino said the place has still yet been determined, when it does it will be on the website.

Joel Sachs asked if the meeting on the 22nd was just the Planning Board or will be a joint meeting with the Board.

Attorney Staudt said all that has happened is the Village Administrator asked the Planning Board chair, if the Board asked for Planning's opinion, could he convene a meeting. The answer was yes on the 22nd. The tonight the Board has requested Planning's input so the meeting will be arranged tomorrow. He said watch the website or call Village Hall.

Mr. Sachs said with the Planning meeting scheduled for the 22nd and the adjournment of tonight's meeting on the 25th, does the Board want a third meeting within a week with the planning consultant. Trustee Walsh replied that the community meeting with the planning consultant was asked by the consultant to get input from the public on the zoning review.

Attorney Staudt said it is important that the moratorium planning process proceed regardless of what happens with any variance application. The meeting with the planning consultant is not a meeting of the Village Board. Board members may attend but only as observers.

On motion of Trustee Walsh, seconded by Trustee Fanelli, and unanimously carried, it was:

RESOLVED, that the Public Hearing on an application of the Moratorium on Certain Land Use Applications (L.L. No. 1-2016) re: 40 Ocean Avenue be adjourned to Thursday, February 25, 2016, at 7:30 PM in the Courtroom, Village Hall, 120 Larchmont Avenue.

And the meeting was adjourned at 8:30 PM.

RESOLUTION

Adjourned **P.** H. to
February 25, 2016