

**Village of Millbrook  
Village Planning Board  
October 22, 2009 Meeting**

***Call to Order***

Meeting began at 7:35 p.m.

***In Attendance***

Linda Roberts, Chairman, Joe Still, Charles Colomello, Dr.  
Thomas Murray, David Clouser, Engineer

***Review of Minutes***

Minutes of the September 24, 2009 meeting were reviewed. Charlie Colomello made a motion to accept and Dr. Murray seconded. All were in favor.

***New Business***

**Coaches Food and Spirits-Sign Review**

The Keenan's came before the Planning Board to have their sign approved for their new restaurant/bar located in the old Dervin's Restaurant. They presented a sign 30x30 in size (6 ¼ sq. feet). At first glance this did not meet the allowed dimensions per the Code. However, after a more accurate measurement, corner to corner, of the proposed sign, the true sq. footage is less than the allowed 6 sq. feet. This would be a double sided sign, hung on existing brackets. The only other lettering proposed by the Keenan's is the existing "Restaurant Entrance" decal that is currently on the front door of the building.

Joe Still made a motion to accept the sign proposal and Charlie Colomello seconded. All were in favor.

**Millbrook Nails-Sign Review**

The owners of Millbrook Nails asked to have their sign review postponed to next month's meeting to allow them more time to prepare their request.

### ***Old Business***

#### **Cottage Salon**

Joe Still requests that a letter be sent to the Building Inspector requesting that he come before the Planning Board to discuss the possibility of a zoning violation at the Cottage Salon. The plans for this small, owner/occupied business first came before the Planning Board. The Building Inspector then stepped in and stated that this application did not have to come before the Planning Board since the owner was well within code. However, there has been a discrepancy between what the code allows ( a one chair salon) and the plans, with 2 salon chairs, that the owner previously presented the Planning Board. The Planning Board wants to see the application through to ensure that the code is being followed. The Building Inspector has informed the Board that he is the authority and seeing as though a home occupation is allowed the Cottage Salon does not have to come before the Board, only for future sign review.

Dr. Murray made a motion to invite the Building Inspector, as well as the Mayor, to next month's meeting to discuss this application and any possible code violations. Joe Still seconded. All were in favor.

### ***Other Business***

Linda Roberts, Planning Board chair, received a letter from David Blumenthal. The Planning Board had been concerned on which direction the Bennett Project application is taking. This letter is attached to these minutes and submitted for the record.

#### **Code Review**

The Village Board of Trustees requested that the Planning Board review Village Code and submit any revisions that they feel should be taken into consideration when they code is updated. The Planning Board started with parking, which has been a long standing problem in the Village. Per code it limits applications by businesses in the Village because of the lack of parking throughout the Village and commercial parking actually overflows into residential areas.

Dave Clouser wrote a memo on his review of the code. This will be an ongoing review and when the Planning Board has comes up with their suggestions they will request a joint meeting with the Village Board of Trustees to discuss their findings.

### ***Motion to Adjourn***

Motion was made to adjourn by Dr. Murray and seconded by Joe Still. The meeting adjourned at 9:09 p.m.

## Memorandum

**To:** Linda Roberts, Planning Board Chair  
**Cc:** Douglas Barnes, Sr. Vice President, Brickman Associates  
Anthony F. Veneziano, Jr., Esq.  
**From:** David Blumenthal  
**Date:** October 14, 2009  
**Re:** Bennett College  
Millbrook, New York

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I received your September 25<sup>th</sup> email and would like to address your concerns. We recognize that the project's visibility has been low but there are reasons justifying and explaining our actions.

With respect to my health, since February of this year I have undergone several significant spinal surgeries and am currently recuperating from my third with a potential fourth coming before year's end. During this extended timeframe, I've continued to work with the development team on outstanding issues which need to be resolved as part of the overall approval package, such as obtaining the SHPO letter. In addition to resolving issues with other agencies and securing related approvals, we have been busy with the legal process.

As I'm sure your counsel, Rich Olson, has advised, the Village and the developer secured a resounding victory when three separate Article 78 proceedings challenging the Planning Board's determinations regarding Bennett College were dismissed. Two of the three parties that challenged your actions have again challenged the Supreme Court's decisions and filed appeals, known as Notices of Appeal. Both Mr. Thorne and The Exmoore House, LLC have started the appeals process to review the Supreme Court decisions. Under that process, they have until January 17, 2010 to submit additional papers and "perfect" the appeals they have started. Both the Village and the developer will then have 30 days to respond and that is the point at which we will be engaging with Rich Olson and the Village in that defense. We are coordinating preparatory work at this time.

The following information is submitted to clarify some of the other issues raised in your email:

1. The Brickman/Blumenthal partnership has been represented by the law firm of Veneziano & Associates since the contract was executed with the seller. Brickman/Blumenthal continues to be represented by Veneziano & Associates and the work will continue to be supervised by Tony Veneziano, Esq. and Mark Miller, Esq. Joe Eriole is no longer with that firm. Further, Veneziano & Associates is a law firm and I am not a lawyer and have never been with that firm. I am a partner in Brickman/Blumenthal;

2. We feel confident in our ability to obtain final approvals for this development. However, at this point the project is on appeal by two abutting property owners. That process can take anywhere from 9 to 24 months and it represents the critical path. In this business environment, being fiscally prudent as a fiduciary for the fund is mandatory. Allocating limited resources during this economic time is obvious. For three years we have honored our obligations and will continue to do so. We appreciate the Village's patience as we work through this phase and get ready to defend the Planning Board's decision on appeal and coordinate the next applications to the Village;
3. With respect to the escrow payments, we have paid significant sums into the escrow account to fund the consultants for the Village. We owe approximately \$5,500 in consultant fees and anticipate making that payment upon the perfection of the appeals by the appellant/petitioners in the Article 78 litigation or upon our submission of the preliminary plat application. As I am sure both you and your counsel, Rich Olson, are aware, no work can be done on the appeals until they are perfected. There is no reason to fear a loss by "default." We are actively engaged in the litigation process and have spent significant sums defending this litigation; and,
4. We apologize for any inconvenience or strain on the Village associated with the maintenance of the property. And while it's not your primary jurisdiction, we have expended significant sums and quite a bit of energy maintaining this property over the last three years and we will continue to do so.

I hope this letter allays your concerns. I look forward to scheduling the roadway centerline walk with the Planning Board as soon as my health allows, which I anticipate will be in mid-November. As always, I sincerely thank the Planning Board for their guidance, wisdom, and foresight in working with the development team to create a plan that will convert a blight on the community into a property that will have a positive fiscal and social impact on the community.