

Board of Trustees and
Planning Board
Joint Meeting
Village of Tarrytown
Monday, February 4, 2019
7:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees: Butler, Hoyt, McGovern, Rinaldi, Zollo, Planning Board Chair Friedlander; Planning Board Members: Aukland, Birgy, Raiselis, Tedesco, Alternate Planning Board Member Lawrence; Village Administrator Slingerland, Village Attorney Zalantis, Village Engineer Pennella, Village Planner Galvin

ABSENT: Trustee Brown

The meeting was convened at 7:00 p.m. with the Pledge to the Flag.

CONTINUED PUBLIC HEARING – H.H. River House II, LLC – 45 Hudson View Way
Amendment to the Findings for Height to the Hudson Harbor Lighthouse

Mayor Fixell announced the Continued Public Hearing to amend the SEQRA Findings to permit an additional 7.61 foot increase to the approved 42-foot height of the roof of the Hudson Harbor Lighthouse in order to legalize/approve the constructed bulkheads for accessing the rooftops/deck area for each of the four (4) units (Unit #s 310, 311, 312 and 313).

Trustee Butler moved, seconded by Trustee Zollo, and unanimously carried, to reconvene the public hearing. Planning Board Member Tedesco also moved, seconded by Mr. Aukland, and unanimously carried, to reconvene the public hearing.

ADJOURNMENT TO EXECUTIVE SESSION

On the motion of Trustee Hoyt, seconded by Trustee Butler, also moved by Mr. Tedesco, and seconded by Member Aukland, with all in favor, the Boards convened into Executive Session for advice of Counsel at approximately 7:02 p.m.

ADJOURNMENT OF EXECUTIVE SESSION

Upon completion of Executive Session and advice of Counsel, on the motion of Trustee Zollo, seconded by Trustee Rinaldi, and also moved by Planning Board Member Tedesco, seconded by Member Aukland, with all in favor, both Boards agreed to finish Executive Session and return to open session at approximately 7:13 p.m.

Mayor Fixell asked Counsel Zalantis to briefly inform the public of the purpose and status of the application. Counsel Zalantis advised that the applicant constructed four (4) bulkheads on the rooftop of the Hudson Harbor Lighthouse in violation of the SEQRA findings, Planning Board Site Plan Approval and Architectural Review Board approval. The approved height of the building was 42 feet. The four (4) bulkheads were constructed 7.61 feet higher than what is permitted. As a result, the applicant is before both Boards (as co-lead agencies) to seek an approval to amend the SEQRA findings. At the January 28, 2019 Joint Meeting, the Planning Board voted to allow the applicant to proceed with the SEQRA process in order to determine the environmental impacts of the constructed bulkheads and to prepare a SEIS. This is not an approval; it is a means of determining the impacts in order to make an informed decision. There were only four Trustees at the last meeting, resulting in a no action vote, so the hearing was continued this evening to allow for more Trustees to vote.

Mayor Fixell invited the applicant to speak.

Daniel J. Pennessi, Attorney, representing the applicant, Hudson Harbor River House II, LLC, appeared with Steven Antonucci, the Project Manager for the Lighthouse. Mr. Pennessi said he would be happy to answer any questions for the Board members not present at the last meeting. They are exploring alternatives but did not have enough time to be able to present them this evening. They are taking a hard look at view sheds with respect to their other buildings and the re-development of the Cooney Building. They would like the Village Board to allow them to proceed with the SEQRA process in accordance with the Planning Board's recommendation at the January 28, 2019 Joint Meeting.

Mayor Fixell said this is a change from last week. Mr. Pennessi agreed and said they would have preferred an approval but they are taking direction from the Planning Board who is willing to take a hard look at this. Ms. Raiselis commented that she also would like the applicant to take a hard look at this. Moving forward, Mr. Pennessi would like to proceed with the Planning Board's recommendation to prepare a SEIS to determine the impacts of the bulkheads.

Trustee Butler had some questions for clarification. He referenced the four (4) bulkheads and section §305-48 of the zoning code in terms of the reason the applicant thought that the bulkheads were allowed; however, he noted that there was no discussion with the Building Inspector and the applicant took it upon himself to proceed without approval. Mr. Antonucci agreed that the work was done without approval but their architect said it was compliant. Trustee Butler referenced Village Engineer Pennella's letter to the applicant dated May 16, 2018 and confirmed with Mr. Pennella that no more certificates of occupancy will be issued for this property until this matter is resolved. Mr. Pennella confirmed that these 4 units will not be issued certificates of occupancy until the matter is resolved. Trustee Butler also referenced Mr. Pennella's January 26, 2018 correspondence and his concerns about the structural capacity of the roof since the live load design with persons on it and roof with snow load is 10 PSF higher. He would like to know if the applicant's intent was always to use this as a roof patio. He asked Mr. Pennella if the roof had to be re-engineered as a result of the construction or is there something else that has to be done. Mr. Pennella said the applicant will have to provide us with supporting computations that the roof load with the live load of people is adequate to support furniture and activity of people with the openings and it is not clear to him that this use was always their intent. Mr. Antonucci said the roof was constructed for a patio and the engineering was done on the bulkheads to make sure the stairs are supported below. Mr. Pennella said the difference now is the cutouts/openings. Mr. Butler asked if this information was submitted. Mr. Antonucci said he does not know if it was but he will follow up to make sure the village has the necessary documentation.

Mayor Fixell asked if anyone in the public wished to address the Board on this matter.

Dolf Beil, of 108 Main Street, came up and asked if the applicant will be required to go before the Architectural Review Board for approval of the bulkheads. Both Mr. Pennella and Mr. Tedesco confirmed that the applicant will be required to return to the ARB to seek approval since the plan has changed and is in violation of their prior approval. Mr. Beil wanted to make sure there is a level playing field for everyone. He thanked the Boards.

Mayor Fixell made a motion, as co-lead agency, and in accordance with SEQRA regulations section 617.9 A. 7., based upon changes in the project, and based upon changes to the circumstances related to the project, that the applicant submit a Supplemental Environmental Impact Statement (SEIS) analyzing the visual impacts, noise impacts and other relevant impacts related to the constructed bulkheads at a 7.61 height increase to the approved 42 foot height of the roof. Trustee Butler amended the motion to clarify that the constructed bulkheads are “for the interior stairs”.

The Board voted on this motion as amended: Trustee McGovern moved, seconded by Trustee Zollo, Trustee Hoyt dissented. All others assented. Approved: 5 - 1

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, to accept this motion as amended to be included in its prior approval at the January 28, 2019 joint meeting with the Board of Trustees. Approved 5 - 0

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that a public scoping session for the draft SEIS be held and that the applicant submit a draft scope to both Boards in a timely manner for review before the meeting. Approved: 5 - 0.

Mayor Fixell asked for the same motion, moved by Trustee Butler, seconded by Trustee McGovern, and unanimously carried, that a public scoping session for the draft SEIS be held and that the applicant submit a draft scope to both Boards in a timely manner for review before the meeting. Approved: 6 - 0.

A brief discussion took place with regard to the next steps going forward. Counsel Zalantis advised that the Draft Scope can be reviewed and accepted by each Board at their regular meetings before a Joint Public Scoping Meeting is scheduled. Planning Board Secretary Meszaros advised that the next two Planning Board staff meetings/work sessions are on February 14, 2019 and March 14, 2019 and the Draft Scope would need to be submitted the day before the meeting.

Trustee Butler noted that this is a business decision for the applicant and he directed a question to Mr. Antonucci, Mr. Pennessi and Counsel Zalantis that, if it is decided that this process is not cost effective to the applicant, what would be the next step if they wanted to go back to the original plan. Counsel Zalantis said they have approvals now so they can build what was allowed or they could re-design in it a way that is compliant and does not exceed the 42 foot height limit. Trustee Butler is concerned about wasting the Board's time and asked the applicant, out of courtesy, to inform the Board should they decide to do something different. Mr. Antonucci said they have gone back and forth with this but they would like to keep the bulkheads the way they are and will proceed with the SEQRA process.

Trustee Rinaldi asked Mr. Pennella how many outstanding certificate of occupancy's there are for the Lighthouse property. Mr. Pennella said there are eleven (11) in total that remain not issued, which include the four (4) units with the bulkheads. Trustee Rinaldi is concerned about the structural issue with the roof. Mr. Pennella said the structural issue is with the roof openings and has to do with the load capacity and frame for the people on top of the roof; it is not a safety concern for the units below.

A discussion took place with regard to the appropriate amount of escrow that should be set for this application. Mr. Pennella recommended that escrow be set at \$10,000.

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the escrow for this application be set at \$10,000. Approved: 5 - 0

Mr. Zollo moved, seconded by Mr. Butler, and unanimously carried, that the escrow for this application be set at \$10,000. Approved: 6 - 0

Adjournment – Planning Board

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned at 7:40 p.m.

Adjournment – Board of Trustees

Trustee Hoyt moved, seconded by Trustee Butler, and unanimously carried, that the meeting be adjourned at 7:40 p.m.

The meeting ended at 7:40 p.m.

Respectfully submitted,

Lizabeth Meszaros
Secretary to the Planning Board