Zoning Board of Appeals
Minutes
January 19, 2017

Present

Chairman Dole
Michael Flavin
Dale Kellerson
Diana Powell Keery
Mark Unvericht

Absent

Also Present

Zoning Board Attorney Eric Stowe
Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Carol Nellis-Ewell
Joanne & Dave Bourne
Carol Schauman
Linda & Bill Moran
Carol Weimer
David Wohlers
William Willett
Joshua Perkins
Andy & Lori Foote
Craig Byham
Paul, Dee, Nicole Harris
Jessica Cates
Steve Licciardello
Joan Quigley

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of William and Carol Weimer, 83 Hawthorne Drive, Spencerport NY 14559 for a special permit for an existing 8 ft. privacy fence on property located at 83 Hawthorne Drive whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence pursuant to 340-32 A (40 (a) in a Residential District.

Paul Harris: It is not an existing fence. When we had the addition put on the fence at the end was damaged and we had an 8 ft. gate put on and we are petition for that and for to go the length of the property on the sides and back. To replace the existing chain link fence.

Chairman Dole: You are going to do the privacy fence on the entire.

Paul Harris: Yes, eventually.

Building Inspector Smith: This is an existing fence because the only thing that was there when I did the C of O for the addition was approximately 8 ft. of fence that goes from back corner of the house to the side fence and the contractor stated that it was a brand new fence but he was only replacing what was there, but what was there was a 4 ft. chain link. So I told them that they would need to come to the Zoning Board to ask for permission to leave that fence. I don't have anything, it is not in this ad and I don't know anything about going any further than the 8ft.

Chairman Dole: Well that was question; I don't see anything about it.

Building Inspector Smith: I didn't know anything about that until he just stated it. It is not in this ad so I don't think you can give it to him. He would have to come back for another appeal to ask for the rest of the fence.

Mark Unvericht: It is on the application though.

Dee Harris: I thought if you look in the description where I wrote it.

Building Inspector Smith: I read it as to the rear of the house, I wasn't aware that you were asking for anything more than what the picture you showed us what is there now.

Attorney Stowe: It is noticed for the existing portion and not the entire and I am not sure but I think it goes beyond our requirement. Rough numbers looking at the map shows about 240 ft. it exceeds the 65ft. So you would have to have a variance as opposed to just a permit.

Chairman Dole: It also was not on the legal.

Attorney Stowe: This request is for the existing portion correct because that was what was published.

Diana Powell Keery: Because they would be asking for something in addition to this and it is not complete for what they would want.

Attorney Stowe: They would also need a special permit for the height and a variance for the length.

Paul Harris: We could just go with what you have on there for now and we can apply later if we decide to extend it.

Carol Schauman: I live next door at 77 Hawthorne and I would like to know how close it is going to come to my arborvitaes?

Chairman Dole: All we are talking about right now is that existing gate anything else if they decide to go with another fence will be done a later time.

Carol Schauman: Ok.

Carol Weimer: Does that mean that we can't even carry that type of fence down the line if it were shorter like 4 ft.? We have a pool we have to have a fence.

Chairman Dole: You could put up a fence according to code without even coming back here.

Building Inspector Smith: Which is 4 feet tall and open construction is what you have now.

Paul Harris: Like a shadow box type.

Chairman Dole: Yes.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

RESOLUTION
325/2017

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from William and Carol Weimer of 83 Hawthorne Drive, Spencerport, New York 14559 for a special permit to allow an existing eight (8) foot privacy fence on property at 83 Hawthorne Drive, Spencerport, New York 14559; and

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of William and Carol Weimer of 83 Hawthorne Drive, Spencerport, New York 14559 for a special permit to allow an existing eight (8) foot privacy fence on property at 83 Hawthorne Drive, Spencerport, New York 14559, is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:

Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
326/2017

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from William and Carol Weimer of 83 Hawthorne Drive, Spencerport, New York 14559 for a special permit to allow an existing eight (8) foot privacy fence on property at 83 Hawthorne Drive, Spencerport, New York 14559, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 19th day of January, 2017, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to William and Carol Weimer of 83 Hawthorne Drive, Spencerport, New York 14559 for a special permit to allow an existing eight (8) foot privacy fence on property at 83 Hawthorne Drive, Spencerport, New York 14559.

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- _____;
- _____;
- _____;

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:

Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

The application of Home Pride Builders, 16 & 18 Glenn Cairn Court, Spencerport NY 14559 for a special permit to construct double townhouse units on properties located at same whereas, a special permit from the Zoning Board of Appeals shall be required for construction of any two or three family dwellings in this district, pursuant to Chapter 340-9 G in an R-2 Residential District.

Steve Licciardello: Good evening Mr. Chairman and board members we are here to request a special permit for the two lots on the east side of Glenn Cairn adjacent to the detention pond closest to the village property. Construction is going to be similar to what is at 1 and 3 Glenn Cairn which is the pictures you should have in your brochures. It is already zoned for multi-family with the prevision of a special permit that is requested from the Zoning Board this evening.

Andy Foote: I am really sorry Steve but what I have seen is the renters often around here don't take care of their properties and were concerned. We take care of ours at 1 Glenn Cairn and we are concerned that they won't so we came out here kind of against it.

Dave Bourne: No disrespect for Steve he helped us out building our house but the reason we built back there was for the quiet and to have double the families in potential even more if the lots on the west side of Glenn Cairn don't sell. I can just see it snowballing to where we could have ten or twelve dwelling there instead of five or six. So I would rather keep it the way it is if that's possible.

Bill Willett: I am at 45 Evergreen Street and I feel that same way. I think if Glenn Cairn Court is going to be single family homes it is really beautifying that portion of the village. I think the double dwellings wouldn't be as nice. I think it is very sterile and not enough greenery in there. I think more multifamily homes is going to be a mistake.

Joshua Perkins: I live at 2 Glenn Cairn and I have to follow what everybody else. There are just so many rental units already in there. I bought my house back before anything was built. The roads were in and it has a sterile feel. With more rental units in our neighborhood I feel would bring down the value of our neighborhood. As they get older and the up keep. You sell them after you make so decent money off of them I feel as though it isn't going to be good for our neighborhood and the further I can keep that from our area the better it is for my family and my neighbors.

Jesse Drew Cates: I live on Waterside Lane which is behind Josh's house and I have the same concerns. We just built a brand new house, it was a fairly expense build and I would hate to see its value go down because we live so close to rentals. Secondly, when I look at those two lots they are fairly narrow and if you put four dwellings on them and those dwellings are really going to be next to each other and that is a concern. There is also a couple of private lots in that area and I don't think putting in doubles would make them terrible attractive to people who wanted to build single family homes.

Chairman Dole asked Attorney Stowe if he would comment on the issues with this particular special permit.

Attorney Stowe stated the issue is for SEQR purposes because part of this requires a revised site plan because the sub map calls out twelve single family lots. The proposal is changing to ten single family lots and two multi-families. The 32 condos were approved and those are done and you have the twelve lots that came with it. So you have to do a revised sub and site plan and verifying all the set-backs and everything else. The issue from a SEQR perspective this board can't vote on it without doing SEQR and without having the site plan to determine the full environmental impact. I get that it's two lots and not trying to blow it out of proportion. But at the same time it subjects the village to liability if the SEQR process is done correctly. If it is denied and it's not done correctly you come in and say that we didn't do SEQR correctly start over. If it is approved and it's not done correctly if residents do that it is over turned on not doing SEQR correctly. The village is stuck in the middle of trying to mediate the SEQR purposes. My thought is to initiate basically a coordinated review or my thought is that the Planning Board is better agency to be lead agency as far as SEQR is concerned because this is a permit to allow a use versus theirs is a site plan to change the development of the whole thing in my estimation sits better with the Planning Board then it does the Zoning Board. We did the same thing for Mavis when they

Attorney Stowe Continues: were here it was a special permit use. It made more sense for the Planning Board to do that component. I respect the whole that it is a lot of money to do that. I get that portion of it but I can't tell the board to make a decision that subjects the village to liability.

Steve Licciardello: Can we make the Planning Board be the lead agency for SEQR?

Attorney Stowe: Not without an application to them. There is nothing in front of them yet and if we make it contingent which it would have to be anyway. Both boards approval would be contingent on the other board's approval. But without having the full set of plans to determine the impact makes it difficult.

Steve Licciardello: I would argue that the impact would be similar to the footprint now. If you look at the structure the house would be that same size and the same impact as a two family.

Attorney Stowe: But density is changing, traffic is changing. Environmental is not just what are you putting in the air. It's the whole thing, it is consistency I think there is 13 check boxes on the EAF.

Diane Powell Keery: I don't know if you have looked at out book, we also have to look at the provisions; we need to know the specifics which are part of the new site plan. So we need those to even make a determination.

Steve Licciardello: I understand but traditional you don't go to a Planning Board for a site plan unless you have Zoning Board approval that defeats the whole purpose of spending all that time resource and money going for site plan approval but I don't even have Zoning Board approval. That is kind of going backwards. I need some kind of letter of recommendation something from the Zoning Board to take it to the next step and the Planning Board would be the lead agency to do SEQR.

Attorney Stowe: I would say usually it's done the other way. Get Planning board approval then condition on the ZBA. That is what I have always seen because the fully engineers plans for SEQR determination have to made up front.

Steve Licciardello: The property is already zoned for this use.

Attorney Stowe: Subject to a permit.

Steve Licciardello: From the Zoning Board then I would go to the Planning Board and if the Zoning Board is on board, let the planning board be the lead agency.

Attorney Stowe: But they can't issue a decision without the SEQR determination having been made already. It's not my rule it's New York State. I get it and I respect the quandary of it. This board is doomed if they approve it and doomed if they disapprove it because either side has a SEQR argument to be made that how did you make this determination. Then the Planning Board is stuck with a determination that's been made if Zoning Board is lead agency versus not that the Zoning Board wouldn't be equally stuck if the determination is made by the Planning Board being lead agency but there is a full set of engineered plans you can better determine what it is.

Steve Licciardello: Does anyone else have any suggestions? This is defiantly not the traditional approach to.

Joshua Perkins: Build a single family home.

Steve Licciardello: I would and a single family home from lot line to lot line so the structure size doesn't change. Same amount of green space.

Jesse Cates: But it is a resident.

Steve Licciardello: You could have a family of six living there.

Bill Willett: But if you drive around Glenn Cairn Court and see the differences in the homes.

Steve Licciardello: Patrick any suggestions? Board any suggestions? I really want to get a recommendation or kind of a thumbs up. I don't want to go to the Planning Board and get there but again I am not sure how they will look at this because I am not compliant. How will they take this application?

Attorney Stowe: It is contingent, and you could say the same for this board that it is not compliant because the site plan isn't approved. It equally would be contingent.

Steve Licciardello: So you can give approval contingent on Planning Board issuing a good EAF?

Attorney Stowe: No discretionary approval can be grant by any board or agency without full compliance with SEQR. You can't have any approval in advance of it. What precedes the approval it's the environmental determination.

Steve Licciardello: Then I would ask that we talk about SEQR to see if there is something they can review. I have site plans here the drawings and layouts that I submitted. They are not engineered but the footprint is there. So it is similar to a footprint of a house. So really there is water, sewer all the utilities are there. So it is not like we are changing any of the utilities or the grading. The elevations are the same. Actually the footprint of the house is probable smaller than a house would be. So we are not changing much so I don't think the site plans are a concern. I know that will want to see them but it is not changing the dynamics of this building lot.

Attorney Stowe and Building Inspector Smith discussed the possible options.

Attorney Stowe stated that the board is permitted to talk about the pros and cons of it. I would tell you without a SEQR determination don't vote. General support general opposition that's ok. Without making an environmental determination I would vote yes or no is a bad idea.

Steve Licciardello: The village still has a little authority to vote ultimately the Planning Board has the final vote.

Attorney Stowe: No once the SEQR is determined then all determination with respect to would traffic increase be detrimental to the environment of the neighborhood. Then that determination has been made, you have removed it from the Planning Board ability because it has already been determined. The rules are clear on SEQR you can't split the project up into parts specifically for that purpose.

Steve Licciardello: My last project in Gates for use variances the Zoning Board was lead agency for SEQR. I got my variances then I went to the Planning Board for site plan approval. In my opinion you have to start somewhere. I don't think it make any senses to go to the Planning Board without having Zoning Board kind of on board. My recommendation would be at least make a SEQR recommendation. We are talking about two townhome buildings we are not talking about a high rise. It is not a huge environmental impact. We go through the boxes on the EAF and I am sure that they can answer them. I don't think there is anything that they can't answer.

Diane Powell Keery: What we are discussing is that we are not a subjective board we don't have the authority to sit here and go well we kind of like this part we don't like this part. What is comes to a special permit we actually have a list that we have to go through. We literally have to wait for the report because if it comes back a certain way then we by laws have to look at each thing and say yes or no. That is what Attorney Stowe is saying on our behalf is we can't just say well that if it does then will this. Because it is not the kind of board we are and not the kind of board that any of these town or villages should be for zoning. It should be this is our list we have to look at each thing. So if we don't have an important component of that and we can't make a decision.

Steve Licciardello: It is zoned for that but you have to have a permit. It is just weird how it is worded in the code.

Diana Powell Keery: We didn't make that law. We have to follow under the parameters of what New York State says we have to do.

David Bourne: I am looking for the definition of SEQR?

Attorney Stowe: State Environmental Quality Review Act and under a Type 1 which this is not you would send out all the stuff asking if they want to be lead agency. The Planning Board always asks the Zoning Board do you want to be lead agency. It is no different on an unlisted when you have two agencies that generate simultaneous approvals. You have to have all of it done for SEQR. This board can act as lead agency but they can also say we want the Planning Boards input and have a coordinated review which you are in front of the Planning Board.

Steve Licciardello: Can they issue an approval subject to Planning Board doing the SEQR.

Attorney Stowe: The approval cannot come before the SEQR determination.

Steve Licciardello: Can we do a letter or recommendation. I have seen letter of recommendations from Zoning Boards all the time to recommend this but to have Planning Board as lead agency.

Attorney Stowe: We don't have a mechanism in our code to say on an application for a special permit. Most of them put it in the code that say on this application it shall be first reviewed by the Zoning Board to make a recommendation to the Planning Board. I can tell you that Chili does that. But an application for rezoning goes to the Town Board then the Planning Board, but it is the code. Perhaps the best thing to do is do the coordinated review and you are free to talk about the issues. With respect to the code items, the applicant says based on what I hear I want to continue and go forward, or based I what I hear I don't think I can overcome the issues depending on what those are. That maybe the way to go but not a vote would be my advice.

Chairman Dole: I think going back to without having a definite site plan in front of us to try to make any decision like that could be way out of our ability.

Dale Kellerson: Can I ask some clarifying questions in regards to the lots, how many are still open?

Steve Licciardello: There are five lots remaining, three on the west side of the road and two on the east side.

Dale Kellerson: So basically the one that are showing on this map. So why are you going for the double townhouses versus single family?

Steve Licciardello: Nobody wants to build on those lots because there is really no back yard and that pond it is not the greatest of a backyard.

Dale Kellerson: In the future if the lots 4, 5 and 6 don't sell would you be thinking about doing the same thing.

Steve Liciardello: No I actually have people that are interested in those lots and should be building there hopefully in the spring. Those other lots once you put the house on it you won't have much of a back yard for a pool, deck or shed.

Dale Kellerson: If it is a rental property you won't have any room there either.

Steve Licciardello: Who said anything about rental properties? They said rental properties. No they are going to be individually taxed properties with separate tax account numbers. They can be sold.

Dale Kellerson: So it's a double they are just as close to the retention pond as a single home.

Steve Liciardello: The cost of this construction hopefully will be a little less than a single home because you are building them together.

Attorney Stowe: Can I ask you to clarify you are going to do not only a site plan but a revised sub map to get them into two tax lots?

Steve Licciardello: We are talking about two lots with a double on each lot.

Jesse Cates: When you put up the condominiums that are currently occupied my understanding when I read the Planning Board minutes was that you were going to sell them.

Steve Licciardello: Yes, they can be sold at any time. Right now they have separate tax id numbers so they can be sold yes.

Joshua Perkins: What are your plans with them are you planning to make money for a while then sell them off.

Steve Liciardello: I have a couple of people who are living there that might buy them so they just wanted to test the water before they jump in.

Joshua Perkins: So you mentioned you are going to put in four purchasable properties on this lot that is undesirable for two.

Steve Licciardello: Right know I have a family with their parents are getting older so mom wants to live on one side daughter and son-in-law on the other side.

Joshua Perkins: But you used the thing saying that there is no back yard is harder to sell a single family but now you are going to have four single family homes that are going to be hard to sell so why go through the hundred percent more work to sell them. Now you have even less back yard because you are sharing it between you and neighbor so it will even be less desirable.

Bill Willett: I just have a question for the board when you have like 80 % or more of the people who live in lots that surround his how do you way that in with your decision?

Chairman Dole: We have a list that we go through the pros and cons then it is basically a gut decision on each individual board member feelings on it.

Attorney Stowe: 340-59 in the Village Code are the grounds for granting or denying a special use permit. There is six items in the criteria.

Steve Licciardello: Attorney Stowe I would be content with a nod a letter of recommendation to the Planning Board. Even if it is not a formal vote as long as I know that I have the next step. There is a lot of work with the site plan.

Attorney Stowe: I understand the work.

Steve: I just want to make sure we are productive here. I actually thought about applying for the Planning Board but I wasn't going to do that until I had Zoning Board wrapped up so I am hoping that we can find a common ground here to make the Planning Board lead agency or let the Zoning Board be lead agency and let the Planning Board have the final say.

Attorney Stowe: Planning Board can't have final say if the SEQR determination is made then the Planning Board is stuck with the decision.

Steve Licciardello: The Planning Board would have the site plan and have a choice on how they want things. Again we are talking about something that is already approved use on the lot.

Attorney Stowe: It is subject to a special permit. Just like any conditional approval any board may give you.

Building Inspector Smith: It is approved for single family house.

Attorney Stowe: Correct for a single family home.

Steve Licciardello: Ok, it is just like a fence, you can put it up but you just need a permit.

Attorney Stowe: A multi-family home is permitted subject to a special permit.

Building Inspector Smith: With it being a double family you have to go back to the Planning Board because you can't just change the approved map. They gave you approval for a single family.

Steve Licciardello: I have no problem going to the Planning Board I just need a little direction.

Andy Foote: Question for the board suppose this gets approved and renters move in and they leave their garbage out year round what recourse do we have the neighbors.

Zoning Board Secretary Gilbert: You would contact the Code Enforcement officer.

Attorney Stowe: It is no different than your neighbor who owns the property and leaves their trash out.

Andy Foote: That doesn't happen.

Attorney Stowe: It can, if the single family homeowner doesn't take the trash in or there is an unregistered vehicle its code enforcement. The only thing Steve I can tell you that they can only talk about the criteria to make the determination. Just looking at number one; conditions and restrictions and safeguards are necessary to protect property values in the vicinity of the proposed use and for the protection of the health, safety, morals, peace and general welfare of the community and the public. That is number one.

Steve Licciardello: Can we go through those and answer them.

Attorney Stowe: An answer is a vote is it not?

Steve Licciardello: I guess my understanding is I was coming here tonight and Zoning Board was going to do the SEQR determination make them lead agency. They would grant or not grant the permit then my next step was going to be to hire an engineer to do site plan go in front to the Planning Board.

Attorney Stowe: You just said that this was the site plan.

Steve Licciardello: This was the site plan for the Zoning Board. I would do an engineered one for the Planning Board to show grading. We are not going to drift much from the existing site plan that we have on file. Grading is the same, elevation is the same, and the driveway location is pretty much the same. That is what I am trying to tell you. The overall concept is going to be is going to be very similar to what was approved.

Attorney Stowe: My position has not changed. I understand what you are saying. The position remains that this board yes they can be the lead agency, they can say to the Planning Board that you guys are going to be a big part of this too we should work together. Hence the coordinated review, required in Type 1, required in Unlisted with the conditional Negative Declaration and optional in Unlisted. This is an unlisted action. They can say I want the Planning Board to be involved. That is not my determination to make that is the Zoning Board on do they have enough information to make a determination of environmental impact. Environmental is includes will more light spill from one property to the next. It's everything.

Steve Licciardello: There are a bunch on intelligent people here I bet they can take a look at this and say the lights are not change whether this is a single house or a duplex.

Diane Powell Keery: Steve, have you read the 340-59 section in our code book?

Steve Licciardello: No I have not.

Diane Powell Keery at this time read aloud Section340-59 of the Village Code Book and further stated that they are not voting on this just reading it so that it is understood what the check list is for the board to consider and what information is needed to make a decision.

Steve Licciardello: Crystal clear and I could have answered every one of those questions.

Joshua Perkins: I think it is crystal clear where the neighbors stand and that he will violate the first two.

Diane Powell Kerry: So you see what we are considering the applicant and the neighborhood. As of right now we are not voting on it right now. That clarifies what we are considering and helping us make a determination.

Building Inspector Smith: May I offer a suggestion, if Steve is going to the Planning Board he has 60 days correct if he asks for it to be tabled?

Attorney Stowe: If he asks for it to be tabled it can be unlimited days, 60 is in the Town Law no the Village Law, we don't' have it.

Building Inspector Smith: You don't have it then he can go to the Planning Board until he is done and come back.

Attorney Stowe: Yes.

Steve Licciardello: So the Planning Board can hear this matter without the necessary permit in place?

Attorney Stowe: The Zoning Board can hear it without the proper site plan in place. Yes, the answer to your question they can hear it.

Steve Licciardello: Can they vote on it.

Attorney Stowe: The Zoning Board could make a determination to declare themselves lead agency. It strikes me that the board that is going to be looking at engineered plans and full set of site plans is in a far better situation because if they are going to make a determination as far as environmental the grading changes the Zoning Board won't know that without seeing the plans. I know you are saying the grading doesn't change, I get it; I am not saying it is going to. Without and engineered set of plans to make that determination it's tough to say you haven't changed that grading.

Steve Licciardello: This is not traditional I have done a lot of projects in a lot of towns and villages. Traditionally you get Village Board blessing before you go to Planning Board.

Attorney Stowe: You don't need Village Board blessing. I have been a lawyer for ten years today and this is how I have always done it. Most time people put in the application to both boards if they need both approvals. That is how have seen it done. You put in what you need is what I've seen. Neither one is right or wrong.

Chairman Dole: In the past I think we have always had everyone go to the Planning Board first then come to the Zoning.

Attorney Stowe: It makes no difference the issue becomes you making the environmental determination because the project is the same. It doesn't change in front of the Planning Board or the Zoning Board which that makes that the action and you are telling the Planning Board don't worry about those engineered plans you don't need to see them we have made the determination already, which gives me pause for how can you make an environmental determination without all those plans.

Dale Kellerson: Looking at it from my perspective and I don't look at it like the Planning Board does. Looking at it very quickly I look at the difference between the two structures it looks a lot closer with your proposal of two double townhouses versus just the two single houses which again it would speak to grading differences that we wouldn't know anything about and how to react to a grading difference with the retention pond right there. It just looks so much closer, these structures look very large, so it looks like there could be a lot more than what we would be able to make a decision on.

Steve Licciardello: Again if I were building a single family home and the structure is that same size the grading would be the same so it wouldn't change.

Decision ensued regarding the two types of structures footprint and grading.

Attorney Stowe: Steve what you are saying that the footprint that was approved by the Planning Board for the single family filed is the same footprint now.

Steve Licciardello: As long as you stay within the setback. We are not changing anything here, whether it is a single family home or a two family duplex nothing is changing. What is in front of this board tonight is a very simply thing. The Planning Board will determine the grading, if the driveways are too close to the intersection, if there is a traffic conflict now because all of a sudden you are going to have too many cars in the area. The Planning Board is the one makes the nuts and bolts determination whether the project is going to work as far as engineering is concerned. Zoning Board is looking at is this going to change the characteristic of the neighborhood, will these property values go down. Well I can tell you, you talk to Bob Criddle he has these assessed sky high. More than single family homes I mean he has got these at around $260,000 dollar range.

Attorney Stowe: Divided by two is $130,000, if there is two families its $260,000 and it is also based off of the rental income off of it.

Steve Licciardello: Well that is just preliminary he hasn't given me the final figures. We are not asking for a change in how we are going to design.

Attorney Stowe: Steve respectfully, as the guy who is going to stand in front of the court when we get sued because somebody sues us I would rather have it clean. The village doesn't want to pay to have it undone when we could have not done it the wrong way to begin with.

Steve Licciardello: If I had understood that differently I would have gone to the Planning Board first.

Dave Bourne: No disrespect to Steve but there is a major difference. When I look at these they are very attractive units for townhomes, you see driveway, and you see siding and windows. If you are looking at a single family home you are seeing landscaping you might have some decorations it is a lot more pleasing to the eye to look at a single family home. I spend a lot of time in my corner office which looks right out on those properties and I don't really want to see that. I am ok with those lots not selling really because we like the peace and quiet back there and I do think the property values will diminish if we put in more doubles going our way.

Steve Licciardello: Attorney Stowe I will put the ball in your court and whatever you think I should do will do it.

Attorney Stowe: The ball is not in my court, I don't want it in my court, and I don't want to get sued.

Steve Licciardello: Mr. Chairman you give me the direction to go and I guess will do it.

Chairman Dole: From what I have heard you have to go to the Planning Board.

Attorney Stowe: To table the meeting at you request to give you time to make a Planning Board application and they are done simultaneously and when I say that I don't mean everybody at the same table but the Planning Board runs there operation and they declare to be lead agency. This board yes they can declare to be lead agency but my opinion from a legal perspective it make more sense for the Planning Board to be lead agency but it can be accomplished one of two ways. One you table this meeting at your request. Make your application to the Planning Board allow them to declare to become lead agency there is another public hearing for site plan. This board would be charged with either participating in the SEQR process or accepting the SEQR determination from the Planning Board or this board to which the application was first made generates a coordinated review and we want the Planning Board involved with this discussion because we think they have a say in what happens.

Steve Licciardello: There is no way that they can just pass the buck on to the Planning Board and make them lead agency?

Attorney Stowe: Not without an approval. Asking for a discretionary approval one that is not mandatory you have your ducks in a row and you want to build a single family Patrick doesn't have a discretionary approval as long as you have everything in line and now I am not going to give you the permit because I don't like your siding. It is a mandatory approval so long as everything is in place. No they can say discretionary approval if SEQR is not completed, SEQR then approval. For everyone's sake and keeping options open tabling it make your application to the Planning Board.

Steve Licciardello: I am one to do it right and I don't like to cut corners. I inherited a mess over there and I don't want a bigger mess then I already have so at the end of the day I want to finish up the project. So Zoning Board we request to be tabled and would you mind give me a little input on what your thoughts are if I go with the Planning Board process and spend eight to ten thousand dollars on site plan approval and they say everything is good. Then back to Zoning Board am I going to see smiles.

Diana Powell Keery: I will give you my opinion right now. This is in terms of this is your business, this is what you do and we encourage business. We want to take care of business for the people that live here and we don't generate these things it's the state. It is your choice to do it this way so it's the cost of doing business. That is how I am looking at this you generated you made this happen. We don't have guilt that you have to go do these things to make it happen. We didn't set the fee. We are going do the process the right way.

Discussion ensued regarding the process and resolution.

Steve Licciardello: Mr. Chairman would we close the public hearing or will it remain open.

Chairman Dole: It will remain open.

Steve Licciardello: Generally they close it after the first meeting so we don't keep rehashing the same comments.

Jesse Cates: We were not notified by mail how come?

Zoning Board Secretary Gilbert: Notices were mailed out to the required people.

Building Inspector Smith: Within the required 200 ft. it is also listed in the paper. That is what we have to do by law. I have a list of who it was sent to and our computer tells us who is within the 200 ft. Most of the properties are his.

RESOLUTION
327/2017

The Village of Spencerport Zoning Board of Appeals in reviewing the application of Home Pride Builders, 16 & 18 Glenn Cairn Court, Spencerport NY 14559 for a special permit to construct double townhouse units on properties located at same has tabled the application, at the request of the applicant to allow the applicant sufficient time to make application to the Planning Board of the Village of Spencerport and for completing of the review process under the New York State Environmental Quality Review Act.

Furthermore, such decision to table this application was done at the applicant's request and with the applicant's consent.

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell-Kerry, Unvericht
Nays: None

Unfinished Business

Nothing requiring Board action

New Business

Nothing requiring Board action

Approval of Minutes

Motion made by Chairman Dole Seconded by Mark Unvericht carried unanimously to approve the December 15, 2016 minutes.

Adjournment

Motion made by Chairman Dole seconded by Mike Flavin and carried unanimously to adjourn the meeting at 8:02 pm.