

**Board of Trustee Workshop
May 5, 2009**

The Board of Trustees for the Village of Cold Spring held a workshop meeting on Tuesday, May 5, 2009 at 7:30 pm at Village Hall, 85 Main Street, Cold Spring, NY.

Attending: Mayor Seth Gallagher Trustees: Lynn Miller, Bruce Campbell, Ralph Falloon and Gordon Robertson

Also: Stephen Gaba, Village Attorney

Applicant: Ken Kearney and Jeffrey Contelmo, P.E. of Insite Engineering

Mayor Gallagher opened the meeting and read a letter from Ken Kearney of Kearney Realty & Development requesting that the village rezone two parcels of land on Kemble Avenue from the current light industrial zone to a residential zone that would allow a development that is consistent with conceptual plans prepared by Insite Engineering. The conceptual plan for the 4.79 acre parcel would involve a thirteen lot subdivision which preserves the ruins of the foundation from Governor Kemble's Clubhouse. The conceptual plan for the 6.89 acre parcel includes the creation of a village parking lot, a clustered townhouse development and an area designated as open space. If agreeable by the Village Board, this request and the associated conceptual plans would be referred to the Village Comprehensive Plan Special Board for their input as well. Members of the planning and zoning boards have encouraged him to submit this rezoning request.

Mayor Gallagher then read correspondence from Jeff Anzevino, Assistant Director of Land Use Advocacy for Scenic Hudson regarding the rezoning request. He applauded the village and Mr. Kearney for envisioning new uses of the two properties that will transform them from neglected post industrial sites into viable community assets. Scenic Hudson owns the adjacent parcel and is currently applying for National Historic Landmark designation and urged the village to ensure that any rezoning of the site would enhance the visitor's experience as they approach the preserve. As traffic and parking problems are a challenge in the village and with Mr. Kearney's property possibly providing a shared parking lot, Scenic Hudson also pointed out that the Haul Road on the Foundry property is to remain a private driveway and not a public thoroughfare because of the potential impact on immediate historic surroundings as well as engineering, site management, and maintenance costs. Furthermore, they urged the village to ensure protection of the wooded bluffs between the West Point Foundry Preserve property and proposed development on the Kearney parcel. The foundation and archeological remains of Governor Kemble's home is on this wooded bluff and should be conserved. Dr. Martin from Michigan Technological University believes that the site of the Kemble Avenue home is a contributing factor for the broader listing of the West Point Foundry, as well as the Cold Spring Historic District, in which Mr. Kearney's development is located.

Mr. Kearney thanked the board for giving him the opportunity to discuss this issue. In 2004, he asked to be considered in a rezone when the lumberyard property was rezoned but it was not. At this time, he asked the board to consider starting the process of converting from a light industrial zone to a residential zone. The new subdivision would eliminate the problem of traffic through Constitution properties. At the request of the Planning Board, he prepared conceptual plans for the entire parcel.

Jeff Contelmo presented a series of maps prepared for Mr. Kearney as follows:

- a. Identification of industrial districts layout of the village including area on Fair Street, former industrial property at the lumberyard, parcels owned by Mr. Kearney and the Foundry Cove property
- b. Configuration of Mr. Kearney's parcels (J,K 1-23)
- c. Balance of maps show configuration of other zones in the I-1 district and how pieces are used right now, what their surroundings are like and what they are adjacent to.

The argument that he makes is that residential development is more appropriate to the surrounding land uses than the light industrial.

Ken Kearney stated that Planning Board asked him to prepare a conceptual plan showing what could be built as-of-right. The plan would break the property into several pieces with conforming uses that comply with parking and bulk requirements including: two story office building, storage, warehouse, flex light industrial space for small businesses (light assembly, associated office and warehouse) loading docks for small contractors, self-storage arrangement – lot coverage is 35%

The next residential plan was to build 38 townhomes with garages, parking, embellished landscape that is fairly typical for the area. The plan looked at the physical constraints if density was not an issue. Steve Gaba pointed out that this was not possible under existing zoning. Mr. Kearney agreed but this exercise was done to show what could be done physically if there was no problem with bulk requirements. The feedback was that there were too many units and the Planning Board also asked if he would be interested in selling a portion to the village.

The preferred plan shows a unit count of 22 town homes with the corner acre proposed for sale/dedication to the village that could accommodate 89 parking spaces. The five acre parcel plan is subject to a filed map with 23 units on it. The plan is not to connect to Constitution Drive. Initially, there were fourteen lots but with Scenic Hudson's concerns, it went down to 13. Also, included is a 50' natural buffer as a conservation easement. For the record, Mr. Kearney was approached by Scenic Hudson and asked if they could have the property appraised. Don McGrath conducted an appraisal and Mr. Kearney was happy with it but he never received an offer. The issue of the ruins was pointed out at a previous public hearing and it has historic significance. The intent is to preserve the ruins but he is flexible on how this works out.

Board Comment

Bruce Campbell stills sees the issue of the number of units and the impact on the school district and traffic flow.

Ralph Falloon asked if the appraisal was public information and if Mr. Kearney would still entertain a sale. Mr. Kearney said he would be interested based upon that appraisal.

Trustee Falloon asked if there were any concerns about excavation on a Superfund site. Mr. Kearney mentioned that he has experience with restoring Brownfields and has investigated this very well. Remaining issues include the pedestal area. In the pedestal area, where the Cadmium contamination went down two feet below the ground water, there was a decision to encase in clay and put a notice on the deed that he cannot excavate down more than 15 feet. This creates a problem in trying to sell a house from a marketing standpoint, it would be difficult to market a house over the pedestal area; it lends itself to being open space. The piece of property with no lingering issues is the three acres at the corner with the parking lot and the other two acres. Also on the deed, he had to allow access to monitoring wells and not dig down more than 15 feet. If he ever subdivided the property and the new lot that was created doesn't include the pedestal area and monitoring wells, at the EPA's discretion, they will allow removal of these deed restrictions. If the village wanted, this could be open space or for village use. If there is no interest, he will retain title to it. Barring the unforeseen, he is very comfortable.

Trustee Campbell asked if your proposal is for “either or when you say balancing act or a combination of both, meaning combination of the tri-cluster as well as 23 homes.” Are you saying you would give up access to that parcel to the village? Mr. Kearney stated that if developed in this manner then he would say yes. One acre has been an area of contention. In his efforts to settle with county, the county insisted on was back taxes and they wanted the one acre. At that time, he would not give up the one acre and sees this as the best property. Trustee Campbell pointed out that the village is seeking a win-win situation. K. Kearney’s stated that the last step in the development of a Brownfield site is to get rid of the stigma and the redevelopment of the lot will increase the value of homes on Constitution Drive.

Mr. Kearney was asked how he proposed to access the property. When he first bought the property Kemble Avenue was two- way. He asked how the factory handled this when it operated for 24/7.

L. Miller asked if plans are contingent upon the board changing traffic patterns. Mr. Kearney said that traffic must be studied and he would do a study and come up suggestions. Also, Mr. Kearney was asked if he would be responsible for selling the homes and how he would represent the former use to potential buyers. K. Kearney said there would be full disclosure. Also, the polluted aquifer is not under any proposed buildings. As a practice, he installs a radon system and if the tests are high he would install fans.

Bruce Campbell asked what he price he would ask for the two bedroom townhomes and for the three bedroom homes. Mr. Kearney estimated that town homes would roughly sell for \$450,000-\$500,000. Bruce Campbell asked who he would expect to attract. Mr. Kearney thinks empty nesters would be attracted. Demographic show the housing bust will continue for a few years. As far as the homes, three lots would be given to his sons. One lot is would be reserved for himself. He would not sell these lots. He doesn’t see high- end homes but beautiful homes and wants to maintain some type of control. His estimate for the homes would be \$550,000. Bruce Campbell mentioned concerns regarding traffic and impact on the school.

L. Miller asked which part of plan he would start on. Mr. Kearney indicated that he would start on the townhomes.

G. Robertson stated that Mr. Kearney had mentioned that these are not high-end homes and asked whether he would consider the lumberyard construction high end. Would you consider same construction and quality? He considers the price high but would build with hardy point siding. He clarified by stating that when he mentioned high- end he meant to say not \$800,000 or \$900,000 homes. It is not a series of McMansions but new, beautiful. Question if same type of square footage (as the lumberyard). He thinks this will work well on the lots, as he planned his son’s house on same lot and that was 100’ x 100’. If all the boards agree and the design stays as is, then this one lot would not change and that house was 2,300 square feet. This was a beautiful home but not \$850,000 home.

M. Armstrong inquired about the traffic plan. He asked if Mr. Kearney would contemplate looking at the existing layout or if he would look at new configuration e.g. a link between The Boulevard and Lunn Terrace. K. Kearney sees as challenging. M. Armstrong sees a circular flow problem in village with the dead ended -ness of this space and with parking and houses, there will be a challenge to get cars out of this space. He asked if he would contemplate other options in the traffic study. Mr. Kearney stated that this is preliminary and there was discussion of this with other partners. Also, there is an open issue with the townhouse development and whether it is private road. As the process evolves and he identifies partners, he will know if feasible. If was identified quickly then with MTA there is

stimulus money available. He thinks traffic engineer would take a look at what traffic would be and comparison of as of right and proposed.

Bruce Campbell asked if he researched water and sewer. The sewer plant can handle the capacity but his concern is the disruption of soil 10-15 feet down. Mr. Kearney added that they have a pump station on property and the sewer (line) from preliminary is not that deep. We never considered the depth of sewer an issue. With regards to the water system, the new home on Kemble Avenue had to run the water main down to serve their home and it is the street. So there is a water main there. Mr. Kearney was told that it was a concern of the water department to create a loop and improve the water system but he is not overly concerned about depths.

Tom Rolston questioned the pricing of a house on river with beautiful views selling at that price. He feared that it would declassify his house as it is dirt cheap. Mr. Kearney responded that the three river view lots are not for sale. Tom Rolston stated that our goal in town is to increase our rateables and can't do so by building cheap homes. Mayor Gallagher mentioned that we have many goals in the village. Mr. Kearney stated the planning board could address this by placing deed restrictions. In today's market K. Kearney doesn't see homes selling for that kind of money.

L. Armstrong is glad he is preserving Governor Kemble's ruins and hopes that he means preserve long- term. She clarified that this was the site of G. Kemble's main home and only became a clubhouse after his death. There is a lot of historical significance to that site. K. Kearney stated that it is open. It could be preserved in a way and including their view and perhaps be open four times a year. The plans are for long- term.

K. Dunn asked about the ZBA public comment period of 62 days for making a decision. By asking for more input, does the clock stop ticking. Mr. Kearney's attorney sent a letter to Mr. Gaba requesting that the zoning board stop the clock and it will restart again upon his sending a letter. K. Dunn was delighted to see the evolution of thought on this property and the Comprehensive Board will meet on Thursday to discuss what they have seen and heard and how best can work together. The Special Board's scope is the whole village and how to achieve the balance. She saw this as a good opportunity to move forward with the Comprehensive Plan. K. Kearney thinks this gives the village a second chance, an opportunity to have property for village use.

T. Rolston felt that one area of concern that should be addressed in the future is the pride in the historic flavor and unique qualities of our homes. He believes this should be a strong consideration. The Historic District Review Board will take this up in detail. K. Dunn pointed out that this is referred to as village character. K. Kearney pointed out that he is not building modular homes but builds his own. The answer is that he is flexible not a modular company and wants this to be beautiful.

R. Falloon asked if Mr. Kearney considered deed restrictions possibly for the townhouses e.g. restrict to 55 years old and over to take the impact off the school or consider within our low income, units for highway workers, ambulance workers, nurses, firefighters and teachers. K. Kearney added that he is experienced in workforce housing and talked about this internally as the plan evolved. Reality is that to create 55 and over one needs certain numbers. With 55 and over it could work. Lastly, he stated that he is flexible.

Anne Impellizzeri of the Comprehensive Board stated that the board has not discussed this issue but thinks it is important to look at this property in the larger context as that section of the village and the village as a whole. She asked if Mr. Kearney was amenable and maybe eager to have dialog on larger issues as they impact you and hopeful that you are patient to allow the board to do a thoughtful process and pull together what we have learned and to

go to the community to see if they agree with what the board has learned. Mr. Kearney added that he is open for dialog.

P. Henderson encourages the board to demand a serious economic impact study and not be too quick to say no to light industrial development. He sees the need for a shot of economic development and his initial reaction to residential development is that it creates a negative impact on residents. He thinks green industrial development will have a positive impact. The village should look at the residential plan, which seems to be the favored plan, and consider how many children to expect in the district, teachers, classrooms and should be able to do some preliminary numbers for what you are proposing. With regards to a traffic study, he recommended that rather than you bring in your person, should ask for an independent study. There are significant traffic issues and the village needs to do an independent study so we can have confidence that every possibility has been looked into. The possibility of newly configured roads is one thing (you) may be reluctant to look into when the cheapest and easiest plan is contingent upon two- way traffic on Kemble. It really appears that it would be a big obstacle. The Village needs professional representation. This is the biggest thing to hit the village in a longtime and there are well- meaning, well- intentioned volunteers with experience but as volunteers they can only do so much. We really need professional guidance to represent the village interests and then ultimately see an opportunity for something that would be good for everyone.

K. Kearney stated that in the end it is a decision that has to be made and stated that he is open for dialogue.

P. Tomann asked if the village could grant rezoning for one parcel and not the other. K. Kearney pointed out that light industrial and residential areas are generally not a good marriage by their very nature. A different type of industrial development possibly could work. This could also be part of the dialog. His plan evolved over a period of time and what they came up with has been a process and he will continue the dialog.

Mayor Gallagher asked the Special Board to discuss and see what kind of role they could play in this.

S. Gaba discussed procedures if Mr. Kearney decided to go ahead. First, he would submit to Planning Board an application for subdivision for one parcel and site plan approval for the other. That project would be subject to a zoning change from Village Board and would be subject to submitting SEQR documents. There probably would be a positive declaration and would probably need a full environmental impact statement. Lead agency will hire consultants, at the applicant's expense, e.g. a planner and traffic engineer. This is a large investment and he would not undertake lightly. The rezoning is a legislative act and there is no obligation. The applicant may go through everything and not get a zoning change. K. Kearney is asking for fairness and is willing to dialog but wants to obtain a feeling about his plan. The board is wisely asking for input and advice from other boards and should refer to the Comprehensive Plan for recommendation and report and also suggest the Planning Board. Then in 60-90 days could have a meeting with representatives and decide whether this is a good idea to go forward then Mr. Kearney can decide with his counsel whether to go forward.

P. Heffernan sees the biggest piece of the puzzle as traffic. He asked how one gets a real handle on whether the roads can accommodate this traffic. He thinks that it would be helpful to have this information earlier rather than later.

M. Early asked what the plans are for Scenic Hudson's Foundry property as (this project) is further impacted by Scenic Hudson and the Foundry property.

M. Armstrong stated that the good thing about this is that it will be collaborative. G. Butler asked for Mayor Gallagher's feeling about townhouses. She can't envision this. In response, he stated that he would like to see what it looks like in the village generally. Additionally, she asked when one will see the physical look of the building. If this becomes a reality, one can look at designs that will be approved by the Historic District Review Board. Mr. Kearney has an interest and concern in this. He thinks townhomes can resemble a village street and is flexible.

Additional Village Business

Appointment of Fire Inspector – Mayor Gallagher appointed Stephen Smith as Fire Inspector. G. Robertson added that numerous candidates were thoroughly interviewed. Trustee Campbell moved to hire S. Smith as Fire Inspector and Trustee Robertson seconded. On roll call vote:

Trustee Miller voted yes
Trustee Robertson voted yes
Trustee Falloon abstained
Trustee Campbell voted yes
Mayor Gallagher voted yes.

Fireman's Service Award

Mayor Gallagher stated that when the Village Board approved of the Fireman's Service Award Budget the amount listed on the cover sheet and the vote on (4/28/09) was \$4,000 short. The amount listed in the General Fund Budget of \$45,000 was correct. The board had a scheduled meeting on 4/30, sent out a public notice and voted that the amount raised by taxation would be \$45,000. The additional \$4,000 will cover retiree benefits.

Dockside Agreement

The board received a copy of the proposed agreement between the state and the village for the Dockside property. Trustee Robertson thought that the following items should be addressed:

1. riparian rights should be included
 2. With regard to generating revenue, the agreement states that the amount of funds shall not exceed what the village puts. Trustee Robertson sees that there will be additional impacts on the village beyond those at the park itself.
 3. term of the contract should be discussed as would hate to see a year to year
- Mayor Gallagher felt that the village needs to develop a plan for use and should ask the waterfront committee.

Trustee Campbell would like to see the planning board files. Trustee Robertson added that if a restaurant franchise is placed on the property, the village may lose money as it would take business away from Main Street and the money would go to the state. Trustee Robertson wanted to reach out to Constitution Island as they have significant monies for a welcome center. Furthermore, the village may want to look at Alpine Park across from Yonkers which is a similar size state- owned facility. He sees the need to focus on income.

Collateral Source Legislation

The village received a request to send a letter of support for collateral source legislation. After research, the board will consider this matter at the monthly meeting.

Workers Compensation Survey

Four recommendations were received. Trustee Falloon will develop a plan for a village hall fire drill.

Trustee Robertson recommended that the board discuss the issues regarding closed spaces with Greg Phillips at the monthly meeting.

The issue at the Highway Garage has been corrected.

Sidewalks

Trustee Robertson asked if sidewalks are installed in compliance with ADA. Also, the village should be addressing resident complaints regarding sidewalk defects. Trustee Robertson will develop a form.

The request from the business at 92 Main Street to continue with outdoor seating on Main Street was considered. Trustee Miller moved to approve and Trustee Fallon seconded and unanimously approved.

Approval of Bills

Trustee Robertson moved to approve of the audited bills. Trustee Falloon seconded and unanimously approved.

The board entered into executive session to discuss a personnel issue.

Respectfully submitted,

Mary Saari, Village Clerk