

**Planning Board Special Meeting  
Minutes  
July 18, 2017**

**Call to Order:** Meeting was called to order at 7:56PM by Chairman Morse.

**In Attendance:** Chairman Stanley Morse, Charles Frisina, Joseph Still, Heather LaVarnway, Joseph Forte and Dave Clouser and Rebecca Minas (Barton & Loguidice).

**Also in attendance:** Zoning Board of Appeals members: Andrew Doro, John Hay and Earl Meyers.

**Mayor Rod Brown and Zone Enforcement Officer/Building Inspector Ken McLaughlin.**

**Other:** Chairman Morse explained that this is a meeting in accordance with the NYS Open Meetings Law. He stated that public participation would not be permitted at this meeting consistent with the Mayor not permitting public participation in his Village Board meetings.

**Meeting Objective:**

Chairman Morse stated his objective for this Special Meeting was to have a more fully functioning Village government with the Planning Board (PB), Zoning Board of Appeals (ZBA), Zone Enforcement Officer (ZEO)/Building Inspector and the Village Board working together with open communication.

The purpose of this meeting is to discuss and clarify their roles and procedures in carrying out official Village business. The reason for the meeting is an apparent disconnect between the offices of the ZEO, the Planning Board and the ZBA.

Tonight's meeting stemmed from a June 12, 2017 meeting between the Mayor, the ZEO and Planning Board Chairman Morse. A copy of Chairman Morse's notes for tonight's meeting are attached.

The issue that created the June 12, 2017 meeting involved an appearance at the March 21, 2017 Planning Board meeting of Mr & Mrs. Jonathan Heunis. The Heunis's requested a building permit from ZEO/Building Inspector McLaughlin, late last year, to erect a freestanding garage on the side yard of their property located at 2 Hillside Avenue in the Village of Millbrook. Their request was denied without prejudice due to inadequate setbacks. The Heunis's then completed an Area Variance application to go before the ZBA to request a variance. Due to circumstances beyond control, two ZBA meetings for this request were scheduled and subsequently cancelled. An offer was then made to the Heunis's to come to the Planning Board for an informal discussion of their request – prior to rescheduling a ZBA meeting. They readily agreed and the PB meeting was held on March 21, 2017. During that meeting, Mr. Clouser reviewed their plans and suggested that, with a slight modification, a variance would not be required. The PB agreed with Mr. Clouser's suggestion and the Heunis's were very pleased that no further action would be

required. Subsequent to that meeting, Mr. Clouser submitted an invoice for his research and review services for the Heunis project. The Heunis's were not informed that Mr. Clouser would submit an invoice for his services and questioned it. After receiving Mr. Clouser's invoice, the Heunis's met with the ZEO and Mayor. They were told that they were not responsible to pay this invoice.

ZEO McLaughlin told the Heunis's that the Planning Board had no jurisdiction in this matter and their suggestion that a variance would not be required was not valid. The Mayor agreed. They should have come before the ZBA – not the PB.

**Tonight's meeting:**

Chairman Morse related his impressions of his June 12, 2017 meeting.

ZEO McLaughlin explained that the Heunis's should not have appeared before the PB because their completed application was for a variance after his standard denial. He said that the Heunis's thought they were at a ZBA meeting – not a PB meeting. ZEO McLaughlin disagreed with Mr. Clouser's reasoning on the variance matter and the suggested modification for the Heunis's request. He stated that the PB should have sent a referral (letter) back to him (the ZEO) asking for reconsideration. The PB sent a copy of their draft minutes from that meeting to the ZEO – but the ZEO said that was not a formal referral. The ZEO stated that his job is to interpret the Code, the PB does not have interpretative jurisdiction.

The ZEO said he is charged to follow the most restrictive Code requirements, whereas the PB and ZBA can and usually follow the least restrictive Code requirements. ZEO McLaughlin feels strongly that he maintained the integrity of the Code. Chairman Morse stated that a review of the Code does not direct that the “most restrictive Code” applies in this case, rather, in the Zoning Section of the Code there is a reference to only one application of the “most restrictive Code” and that addresses only warehouses. Chairman Morse also read an email from former ZBA chairman Joel Diemond stating that “It has been our understanding that when the Code is ambiguous or somewhat contradictory, we should interpret it in a way that leans in the direction of the applicant”.

The Mayor asked how the Heunis's got to the PB rather than the ZBA (see the explanation above). Chairman Morse responded that the referral came after the former ZBA chairman (Joel Diemond) emailed the PB/ZBA secretary on February 2<sup>nd</sup> stating that “We (the ZBA) could hold a public hearing but we would not be able to act until the PB has had a chance to respond to the application. Then we would have to meet again.”

He stated that the Village cannot pay Mr. Clouser's invoice because there is no escrow fund for this applicant. The Mayor reiterated that if the Building Inspector/ZEO denies a request it must go to the ZBA. The ZBA can request assistance from the PB – but it must start with the ZBA. The PB can only offer an advisory opinion.

PB Chairman Morse asked if the ZEO can interfere after a PB or ZBA decision. The ZEO said it would be unlikely.

**PB Chairman Morse asked if the ZEO has the authority to declare a PB or ZBA meeting “null and void”. The ZEO said that has not happened.**

**PB Chairman asked why the Heunis problem was brought up 3 months after the March PB meeting. No answer was provided.**

**The PB and ZBA members stated that they have and will continue to work collaboratively and hope that the ZEO will too.**

**Adjournment: Mrs. LaVarnway moved and Mr. Forte seconded a motion to adjourn this meeting at 9:28PM. All were in favor.**