

Approved May 6, 2021

**Village of Kinderhook  
Planning Board  
6 Chatham Street  
Kinderhook, New York 12106  
Minutes of April 1, 2021**

This meeting was held remotely as part of the Village of Kinderhook's COVID-19 response plan.

Present via Zoom: Chairman Kevin Monahan, Vice Chairman Bruce Charbonneau, Susan Patterson, Abram Van Alstyne, Tina Lang, Village Attorney Rob Fitzsimmons, Code Enforcement Officer Peter Bujanow, Village Board Liaison Mark Browne, Secretary Carol van Denburgh, Trustee Dorene Weir, Economic Development Director Renee Shur, Applicant Andrew Scharoun, Applicants Jennifer Ose-MacDonald & Jake Samascott, Clinton Adeo, Mary Ose, Paul Calcagno, Stuart Peckner, Jerry Cosgrove, Laura Darman, Ruth Moore, Pete S., and Sandi Meier.

Call to Order: Meeting called to order at 7:03pm by K.Monahan.

Minutes: S.Patterson motions to approve the Planning Board minutes of March 4, 2021.  
B.Charbonneau seconds; all in favor.

Funds Remaining: \$671.48

Correspondence: An email was received on Thursday, April 1, 2021 (attached to these minutes as Appendix A) from P.Calcagno read by C.van Denburgh. Email states P.Calcagno's objection to any ingress or egress from 8 Broad Street (3 Sisters Tavern) onto 10 Broad Street as well as objections to a water line being installed underneath 10 Broad Street.

Old Business: Trustee M.Browne discusses the signage at Mills Park. The wayfinding sign as presented was voted down by the Village Board. Alternatives are being considered and we are pursuing the overall reduction of signs in and around Mills Park as the present approach. The AHET Greenway is working with Google to identify the trail on their maps with identifying points of interest but not specific businesses. A pilot to build a Village of Kinderhook government Facebook page is in development. Any symbols put on the AHET will help guide people when they take a picture of the symbol and will bring them to the Facebook page. Individual businesses can be identified with this method.

The Village Attorney and Village Trustees are considering the "Alternate" position recommendation for this board. The Recreation Commission is also interested in this for their commission.

M. Browne spoke with J.Ose-MacDonald after the last meeting regarding the "chicken regulations". A homeowner has inquired with the Code Enforcement Officer about raising chickens. M.Browne wants to move this along as a regulation, not a law, as our code is restrictive in that regard. CEO P.Bujanow did include all of the Planning Board members on his correspondence to the homeowner inquiring about raising chickens in the Village. It is allowed, they just have to adhere to the current Village laws regarding this

(come to the Planning Board to ask permission, 200' setback for building and 25' setback for screening).

New Business:

**-Site Plan Amendment for 12 Broad Street  
Mary Ose via Andrew Scharoun, Kinderhook, NY  
Lot #43.20-1-31 Proposed retail and rental space**

An email was received by the property owner, M.Ose allowing A.Scharoun to speak for her and the property. A.Scharoun discusses the proposed plan. He wants to change the upstairs where Scotty's Barbershop used to be back into 2 residential apartments and wants to change the downstairs where it was a dog grooming shop into light retail/office space and the back section of the first floor would be another apartment. A.Van Alstyne asks if there is any plan for what the retail space will be. A.Scharoun states there is a prospective client but no signed lease. He is looking for a general title that best fits the space such as light retail/office space from the Planning Board as one of the owner's concerns is not having to rename the space every time a tenant leaves. B.Charbonneau states that the dog grooming space was retail so that is still in effect. R.Fitzsimmons confirms that if it was previously approved for retail and a substantial modification is not being made to that space, that approval would remain. A.Scharoun states that he and C.van Denburgh did look at the property file and it is listed as the front half retail and the back half apartment. A.Van Alstyne was in that location when it was a pet store with racks in the front and a semi significant retail space but could not say if there was an apartment in the back. T.Lang states the retail space was dog food and dog items in the front and a shampooing and grooming area in the back. A.Scharoun states the dog groomers incorporated the apartment into their retail space. B.Charbonneau asks if they would have 6 parking spaces available which is 2 parking spaces per apartment. A.Scharoun states there are at least 4 in the back with a large parking lot behind the building. He will measure what is back there as there is a significant amount of property along with a three-car garage. A.Van Alstyne asks if parking spots on the street would count as parking spaces. These would not count towards the residential use parking spaces. K.Monahan asks about the downstairs apartment having its own entry. A.Scharoun confirms that there is a door in the back of the building for this apartment. There is a stairway to the left side and then 2 doors for the upstairs apartments. A.Van Alstyne confirms that the outside of the building is not being modified but just a reconfiguration of the upstairs. A.Scharoun states there is no change to the footprint and no structural change, no moving of load bearing walls. S.Patterson asks about water usage and plumbing with 3 apartments, would that have to go to the County? A.Scharoun spoke with David Booth from the Village DPW. The main line is getting redone next week and then they could punch through whatever they needed for water in the building. The sidewalk will be ripped up and then they will have access to put in 2 or 3 lines. R.Fitzsimmons states that the property is serviced by Village water and there is an engineering standard for the residential and retail load for what size service there should be for the building. The CEO will determine ingress and egress, fire escapes, and sprinklers if necessary. K.Monahan states that we will wait for follow up on the parking and the water lines. B.Charbonneau states that A.Scharoun is cleared to go on the retail portion but a site plan review and a special use permit are needed to go multi-family. The drawing that was turned in is the interior of the building. The Planning Board needs the exterior work highlighting where the parking is as this is a separate use permit. A.Scharoun asks if he can obtain the square footage necessary to park six cars.

R.Fitzsimmons states this information is in the code section 130-17, 8.5' wide and 18.5' long and laid out in a way that the vehicles can maneuver. R.Fitzsimmons asks if the PB wants a surveyed sketch plan of this area or would a dimensional sketch be suitable. The PB unanimously agrees that a dimensional sketch would be suitable. P.Bujanow states the sketches provided are for the layout but he will need architectural drawings that incorporate electrical, fire suppression and what is required by code. A.Scharoun states that before they hired an architect and engineer, they wanted to make sure that they could make these changes. B.Charbonneau asks if they are cleared to do the retail. R.Fitzsimmons confirms and any exterior signage would have to be approved by the Historic Preservation Commission. The PB agrees to moving on the site plan for the retail use. The PB is familiar with the SEQRA process and form and the twelve questions. **Motion made by A.VanAlstyne to issue a negative declaration for purposes of SEQRA, K.Monahan seconds; all in favor. Motion made by K.Monahan to approve the site plan for the first floor partial use as depicted as retail, B.Charbonneau seconds; all in favor.**

**-Special Use Permit for 8 Broad Street  
Jennifer Ose-MacDonald and Jake Samascott  
Lot#43.20-1-29 "Three Sisters Tavern"**

J.Samascott states that the property at 8 Broad Street is under construction. The restaurant portion of the building (basement and the first floor) was previously approved but the permit has expired. They are now looking to open the whole building as one phase (9 hotel rooms upstairs, in addition to the restaurant on the first floor and basement.) They are looking for the Special Use Permit from the PB to make this happen. S.Patterson asks if this is a renewal/extension? J.Samascott states a Special Use Permit was never obtained for the hotel portion and now they want to do the entire project in one phase. S.Patterson states that it was separated into two phases. B.Charbonneau states they want an amended Special Use Permit. S.Patterson then asks if they have 90 days to complete that work. J.Ose-MacDonald states 6 months. J.Samascott states that their site plan is in and asks if anyone has any questions. B.Charbonneau asks if they have seen P.Calcagno's memo. J.Samascott states they just heard it read at this meeting. He says that they have an active and existing NYSDOT issued permit to have C.Rothermel put in the waterline. J.Ose-MacDonald adds this went through the County and Village engineers as part of the NYSDOT process. R.Fitzsimmons states P.Calcagno's concern is about digging up the front sidewalk. R.Fitzsimmons spoke with the Village Engineer Ray Jurkowski, who has approved the plans and specifications for the work. The DOT right of way has been confirmed with the mapping, J. Ose-MacDonald's survey, P. Calcagno's survey, and other surveys of the area that the DOT right of way goes up to the buildings. The sidewalk is in the DOT right of way which is why a permit was received to open it up to do the waterline. The Village DPW will replace portions of the sidewalk that need to be replaced. R.Fitzsimmons does not see any reason why the waterline work can't go forward. He did state that they should try to establish a manner for people to get in and out of the neighboring open businesses (barbershop) yet keep the area secure. J.Samascott says that C.Rothermel plans on doing the work on a Monday as Bones Barbershop is closed on Mondays. R.Fitzsimmons asks about what P.Calcagno means with "coming out the basement staircase." B.Charbonneau states the egress into 3 Sisters Tavern is 2 staircases that go down below grade. The west/south one abuts against (does not touch) P.Calcagno's 10 Broad Street building. K.Monahan believes P.Calcagno does not want anyone stepping onto his private property

in case of use as a fire escape. J.Samascott thinks it is part of the state right of way thus it is state property.

P.Calcagno begins to speak. R.Fitzsimmons states to P.Calcagno that we are not at the Public Hearing but he is a neighbor who has raised concerns. Chairman K.Monahan allows P.Calcagno to discuss his concerns. P.Calcagno states that he spoke with Tina (took over for Joe Visconti) at the NYSDOT and the state's right of way does not go up to the building. They told him, after a three-day review, that their right of way does not go further than three feet from the curb nor does the village right of way go past the village's water shut-off valves. Past that valve is P.Calcagno's property unless someone can show him something different. Did Bob Guerriero build that porch on State property? R.Fitzsimmons would like to see what P.Calcagno has from NYSDOT. Former Mayor Jim Dunham worked for NYSDOT for 30+ years and he spoke with the Regional Engineer and several people about this. They were all involved with this when the sewer lines went in with all of the right of ways. R.Fitzsimmons looked at P.Calcagno's survey of his property generated by P.Van Alstyne and he indicates that the property line is on the front of the building's façade. P.Calcagno is saying that is not the case. B.Guerriero put in that egress and the former owner of 10 Broad Street, Cynthia (Meili) was concerned about people coming out of the bar, smoking under the overhang, and talking. He had no right to put an egress there. P.Calcagno is asking for someone to show him paperwork that shows that is the State's property. R.Fitzsimmons says that he looked at P.Van Alstyne's survey, that P.Calcagno paid for, and he terminates the property line at the façade of the building where it meets the sidewalk. P.Calcagno states that Van Alstyne shows all of the property lines terminate at the building and that is not correct. If this was the case, all of these property owners would have an easement in the deeds to ingress and egress on their own properties. R.Fitzsimmons says there is an end point where the DOT right of way stops, and a start point for the property owner's property, and they meet each other. There is no need for easements when these abut each other. He does not think that the termination point for the DOT right of way and the private owner's property would be the Village's valve for water infrastructure because then there is a third-party implication for the DOT line and other private property lines. P.Calcagno has always been told that from the Village's water line to the building is the owner's responsibility. We (the property owner) own that water line and if it breaks, the property owner has to repair it. He is asking the Village or J.Ose-MacDonald show paperwork or have the State come and paint the area where the work permit is for. In regards to the basement egress, that was not there when Malcolm (Bird) owned The Dutch Inn, B,Guerriero put it in those stairs. R.Fitzsimmons says it has always been a question how the steps ended up on the right of way. R.Fitzsimmons or the village will contact NYSDOT. A work permit was issued to allow this work to happen, P.Calcagno is not questioning the permit, he is questioning the location. J.Samascott states that Tina is the one who approved and issued this work permit from NYSDOT. They have an engineered drawing that shows the water line that was submitted with the application and it clearly shows where the water line is to go. J.Ose-MacDonald will provide Tina's contact information. They have not been notified by Tina that the permit might be in question.

R.Fitzsimmons said the research that was done after P.Calcagno spoke with Trustee M.Abrams shows State Route 9 came to be a state road in the 1920's. There are user roads and dedicated roads. A dedicated road is a new subdivision project where a survey is done and the land is dedicated to the village and becomes village owned land and road.

Route 9 is a user road. Adjoining landowners owned to the middle of the road and the road is a legally implied public easement for public travel. The State did not do a dedicated taking when they took over Route 9. They did not pay for a survey of all of Route 9 from the North Country to downstate. They said this is what the road bed is, this is what we need to do to make it a proper Route 9 and that's what we administer. Whenever work is done around one of these user roads, one must get a DOT permit so damage is not done to the road. In the highway manual used to determine where the right of way starts and stops, there is guidance when the road has not been surveyed. It states you look to the deeds of the neighboring landowners and where they have been terminated by the surveys. Here, looking at all of the surveys, they all terminate the property owner's properties at the front where it meets the building. B.Charbonneau asks if the move of the sidewalk when we went from head-in parking to parallel parking effected this? R.Fitzsimmons states it may have as it changed the curb more toward the road.

K.Monahan makes a motion to accept this application and set the Public Hearing for May 6, 2021, S.Patterson seconds; all in favor. S.Patterson asks if their work can or cannot continue until after the Public Hearing? R.Fitzsimmons states they have the DOT work permit and he will make efforts to confirm the village's findings for the waterline, right of way and the work that needs to be done. We have a commercial property that needs access to the village's waterline infrastructure as they were not allowed to drill a well. They have to get the waterline in and up to code to make this use go.

P.Bujanow asks J.Samascott about the kitchen work. When the original building permit was issued, the kitchen was left out until there was a better understanding of that area so a building permit will be needed when that work is started. J.Samascott says they are not changing anything in the kitchen and they are getting the equipment drawings together. J.Ose-MacDonald asks for clarification since nothing is changing in the kitchen, except the addition of a hood which she understands will require a building permit. P.Bujanow states that another walk-thru is required.

Next Meeting: May 6, 2021

Adjournment: 7:58pm - A.Van Alstyne motions to adjourn. S.Patterson seconds; all in favor.

Respectfully submitted,

Carol van Denburgh  
Secretary to the Planning Board

## APPENDIX A

*8 Broad Street*



Apr 1, 2021,  
4:53 PM

**Pcjdevelopment**

to pbujanow@villageofkinderhook.org, me, nheeder@villageofkinderhook.org, dorene.weir3639@twc.com, mike.abrams1@gmail.com, rjf@fitzsimmonsandmills.com, cvandenburgh@villageofkinderhook.org

To The Planning Board,

Please Be advise I object to any ingress or egress from the basement staircase for 8 Broad Street the propose (3 Sisters Tavern) onto 10 Broad Street (Bones Barber Shop). They do not have any easement or right of way allowing them to do so. This was also the case with the two previous owners. There is also no right of way or easement permitting them to install a water line under my property in front of my building. I notified NYS DOT and after their review stated that they do not own or have any easement or right of way further than 3 feet from the curb. Please have them or the village provide me with any proof or documents concerning these matters. I will speak at the public hearing when I am notified, to all my concerns about including missing gutters bringing water onto my property, Utilities encroachment, Building Eves encroachment and all other concerns of mine.

Thank You

Paul Calcagno  
Village resident and Property Owner.  
(518) 610-1581