



VILLAGE OF COLD SPRING

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DAVE MERANDY, MAYOR
MARIE EARLY, TRUSTEE
KATHLEEN E. FOLEY, TRUSTEE
FRANCES MURPHY, TRUSTEE
TWEEPS PHILLIPS WOODS, TRUSTEE

JEFF VIDAKOVICH, CLERK/TREASURER
MICHELLE ASCOLLO, ACCOUNTANT
LARRY BURKE, OFFICER-IN-CHARGE
MATTHEW KROOG, WATER SUPERINTENDENT
ROBERT DOWNEY, HIGHWAY DEPT CREW CHIEF
CHARLOTTE MOUNTAIN, CODE ENFORCEMENT OFFICER

Board of Trustees
Thursday September 16, 2021 @ 6:30 PM
Via Video Conference

1. Code Review Discussion
 - a. Chapter 64 – Historic District
 - b. Chapter 76 – Noise
 - c. Chapter 134 – Zoning
2. Approval of Bills - Batch #: 6187 Amount: \$62,639.84

The public is invited to attend the meeting as follows:

<https://zoom.us/j/94086293122?pwd=eVJpUnFZRUt5K3A3anhFLzIERG9SQTO9>

or to Join by Phone: (646) 558-8656

Meeting ID: 940 8629 3122 Password: 259033

9/8/21

To: Cold Spring Village Board of Trustees

I would like to summarize my position on gas leaf blower noise, following up my comments at the Code meeting on September 7, 2021. My proposal is to simply ban gas-powered leaf blowers since, according to industry data, all of them violate the village code limit of 55-60 decibels. Asking residents to report noise violations is an unnecessary burden if the offending machinery is, by its very nature, non-complying. The machines can be replaced with quieter electric models or simply abandoned. In addition, they pollute the air of a dense village with both fumes and dangerous lingering air-borne particulates. Finally, as part of a Climate Smart Philipstown, the village should reduce its carbon footprint as much as possible. I agree with the comment that landscape contractors should be informed of such a change and given a deadline to comply. Thank you for your tireless work and listening to/reading my comments.

Sincerely,
Stephen Rose
7 Marion Ave

VCS Clerk

From: Judith K. Rose <jrose@aya.yale.edu>
Sent: Sunday, September 12, 2021 5:02 PM
To: Trustee Early
Cc: Dave Merandy; Trustee Foley; Trustee Murphy; Trustee Woods; VCS Clerk
Subject: Re: For Code update committee and Village Board

I highly recommend that the Village not approve any zoning changes for the two large parcels on Kemble until there is an acceptable site plan in place for the entirety of the two properties. You are giving away all our leverage and opening us up to either a development we don't want or another lawsuit.

On Sun, Sep 12, 2021 at 4:46 PM Trustee Early <trustee.early@coldspringny.gov> wrote:

Thank you for your comments Judith.

At the Nov. 29, 2017 Code Update Committee public meeting #2, the CUC proposed to rezone properties currently zoned I-1 to a new zoning district, MU-1. At the Village Board public hearing on Sept. 7, 2021, the new zoning district was discussed and described in the proposed Chapter 134; the proposed zoning map was on the Village website along with the proposed Chapter 134, the proposed Table of Dimensional Requirements, the current version of Chapter 134, a red-line version comparing the current version of Chapter 134 with the proposed version of Chapter 134 and a description of the differences between the current and proposed versions.

The current version of the zoning map does not detail the parcels in I-1; that zoning map shows "I-1" as a single stretch of land which is not the case. There are a number of individual tax lots in existence "underneath" the I-1 parcel depiction; those tax lots have been in existence for quite some time. The proposed zoning map illustrates those tax lots in MU-1. No tax lot parcels have been changed, merged, there are no lot line adjustments. The proposed zoning map more correctly represents Village parcels.

At the Aug. 19, 2018 Code Update Committee public meeting #3, the topic of "Evaluate Adopting a Ridgeline Protection Overlay District" was presented and discussed. The CUC's recommendation was NOT to implement such an overlay district. The reasoning behind the recommendation is that, in general, "Ridgeline" is defined to be at least 600 feet in height; the highest point in the Village is approximately 260 feet above sea level, with Kemble Ridge at approximately 40 to 70 feet above the WPPF walking path. However, as can be seen in the proposed Chapter 134, there is another new zoning district - the Scenic Viewshed Overlay District (Chapter 134-24). Areas for protection include Foundry Cove and Kemble Ridge, including the Kemble overlook. I believe that Chapter 134-24 addresses the concern about parcels along the ridgeline above Foundry Cove.

From: VCS Clerk <vcsclerk@coldspringny.gov>
Sent: Sunday, September 12, 2021 2:16 PM

To: Mayor <Mayor@coldspringny.gov>; Trustee Murphy <trustee.murphy@coldspringny.gov>; Trustee Foley <trustee.foley@coldspringny.gov>; Trustee Early <trustee.early@coldspringny.gov>; Trustee Woods <trustee.woods@coldspringny.gov>
Subject: FW: For Code update committee and Village Board

From: Judith K. Rose <jrose@aya.yale.edu>
Sent: Sunday, September 12, 2021 1:51 PM
To: VCS Clerk <vcsclerk@coldspringny.gov>
Subject: For Code update committee and Village Board

Only those who attended the end of the hearing last week, were made aware of the change in the zoning map which show the major subdivision laid out at the end of Kemble next to Foundry Cove.

I hope that the showing of the subdivision on the map is a clerical error and NOT the intention of the Village board. As no subdivision has been approved, this area should be left blank as it has been in the past.

Two Points:

It was only 20 years ago or so that the Village was in an expensive lawsuit with the owners, who wanted that subdivision. They were trying to get a single lot approved which would have set precedent. We won the lawsuit. By the Village showing those lots on the new zoning map, we may in fact be undercutting ourselves and the ability of the planning and zoning boards to do what is right with the property. They will need the ability to do their work. I am not a legal expert but it looks like this map could be triggering a big mistake on our part.

And moreover..I was on the Waterfront committee during the comprehensive planning process. It was almost universal that everyone wanted to protect the viewshed of the Foundry Cove. To do that, any development would have to be far enough back from the ridge line so that the houses are not seen through the trees. The six lots now showing on the ridge, if built upon, would violate the wishes of so many voices that put that plan together. I strongly urge you to consider all the historical input.

I ask that I receive an acknowledgement from the board that including the lots was a mistake or if it is intentional, why.

VCS Clerk

From: Peter Henderson <peterhenderson.us@gmail.com>
Sent: Monday, September 13, 2021 9:02 PM
To: VCS Clerk
Subject: Comments on section 134-12 of the proposed zoning code changes

Dear Village Clerk,

Please can you forward this to the Mayor and Board of Trustees and acknowledge receipt of my letter. Thank you very much,

Peter Henderson
11 Marion Ave, Cold Spring, NY 10516

Dear Mayor and Board of Trustees,

In short: Please do not rezone Marathon until there is a site plan in place for the entire property.

I've been out of touch on village matters for a while so was shocked to learn the board is contemplating rezoning the site of the old Marathon battery plant on Kemble Ave in a way that would allow the construction of as many as 48 single family homes. The proposed rewrite of village code section 134-12 would create a new "mixed use" zoning district that would permit single family homes on lots of 10,000 square feet (R-1 zoning) at the Marathon site.

The thing I always forget about Marathon is that it's not one parcel, or even two, but has been 24 individually deeded parcels since 2004. The decision by the county to grant individual deeds based on a map of the "Crestview Subdivision Section B" from 1955 was, I believe, incorrect. The subdivision map had clearly been abandoned based on various significant actions that took place at the site after 1955 and should therefore have had no legal standing in 2004, but the village has been happily collecting taxes on those individual lots since 2004 so it is probably a lost cause trying to re-argue that decision.

However, in 2009, as you will remember, the owner applied for a lot size variance for one of those "Crestview" parcels, was denied, sued the village, but ultimately lost. The whole affair is well summarized in this 2011 Phillipstown.info (now Highlands Current) article: <https://highlandscurrent.org/2011/04/15/village-wins-court-case-against-marathon-site-developer-kearney/>.

The lawsuit was contested within the context of the existing I-1 zoning that requires a minimum lot size of 1 acre, so the difference between the contested parcel and 1 acre was substantial. If we adopt MU-1 as written, the minimum lot size becomes 10,000 square feet. **It appears that three of the lots on the ridge already meet the new dimensional requirements.** He will request building permits for those lots with no variances required. He will then chip away at the rest. If it's done piecemeal in this way, it's hard to argue that the building of any one house will significantly impact traffic in the area, or the character of the neighborhood, etc. We will end up with nothing remotely like the "village within a village" described in the Local Waterfront Revitalization Strategy (LWRS).

If the proposed rezoning is supposed to reflect the intent of the LWRS, then it clearly misses the mark. The LWRS describes a mix of small businesses, live-work units, and open space, and an emphasis on green building and on minimizing the impact of traffic. The proposed new zoning includes no requirement or incentive for a developer to work with us to achieve anything remotely close to that ideal. While the new zoning regulations would *allow* such a development, they also allow a hodgepodge of single family homes, which is most likely what we'll get. There will be no unified plan for the site as a whole, because there is no requirement or incentive to do so.

Also notable is that, with the exception of the new Scenic Viewshed Overlay District, which I applaud, the new section 134-12 is

devoid of controls to ensure whatever is built meets certain “quality” standards, along the lines of those presented in the LWRS. Without safeguards to ensure that development benefits the village as a whole and does not degrade quality of life for those living in the surrounding area, how can we be confident any future development will be desirable and net positive? While individual site plan approvals will be required, I believe it will be very hard for the Planning Board to introduce quality requirements of significance when a developer wants to develop individual parcels in accordance with the zoning.

What exists at Marathon is an opportunity for a negotiated solution between a property owner and the village that could result in mutually beneficial development. A discretionary change like the one being proposed would remove much of the leverage we currently have over future development at the site. As long as the existing zoning prohibits the kind of development that would be attractive to a developer, we can negotiate on quality, whether it’s the need for improved vehicular access to the site, green building requirements, preservation of open space, woodland, and viewsheds, or all of the above. Why change the code pre-emptively without adequate safeguards in place?

The village has made clear that it is open to changing the zoning at Marathon, which is fine. However, it seems to me that we’d be much better off leaving the existing zoning in place until the owner presents a plan for the entire site that meets the criteria set forth in the LWRS. Then we can update the zoning to accommodate the plan. If instead the village opts to move ahead, the board should add appropriate safeguards and should explain clearly why the changes would benefit the village, rather than the property owner, and what the rationale is for the change, because neither are obvious.

It’s very likely that most if not all the issues I raise have been considered by the Code Update Committee and that there is much I’m unaware of. I will happily read any reports or correspondence the committee has drafted that would provide context to support their recommendations for that site.

Sincerely,

Peter Henderson