

# **COUNCIL OF GREENBURGH CIVIC ASSOCIATIONS**

## **Minutes of Meeting – Monday, April 29, 2024**

This Zoom-enabled meeting began at 7:30 PM. The meeting was chaired by CGCA Chair Madelon O’Shea (Old Edgemont). In attendance were: CGCA Treasurer Dorrine Livson (Worthington-Woodlands), Alex Anzer (Hunter Lane), Tom Bock (Fulton Park), Mike Burdi (Suburban Manor), Paul Colten (Hilltop Farms), Major Fareed (Juniper Hill), Alan Fishman (Northern Greenville), Alicia Ford (Parkway Homes), Ellen Foley (East Irvington), Maria Gomez (Fulton Park), Linda Koch (Hilltop Farms), Maria Pecora & Bill Sullivan (Sprain Brook Parkway), Ella Preiser (Beaver Hill), Dylan Pyne (Edgemont Community Council President), Enrica Staeger (Downing Hill), and Carol Wielk (Secor Homes).

Also attending were invited guest Elizabeth (Liz) Gerrity (Greenburgh Deputy Building Inspector) and Francis Sheehan (Greenburgh Town Councilman).

Treasurer Dorrine Livson reported that the CGCA bank account as of March 31, 2024 was \$965.00. She noted she just received another dues check and was awaiting two more. Minutes of the Special Meeting held on March 11, 2024 were approved as written. Ella Preiser noted that a copy of these Minutes was sent to CD&C Commissioner Garrett Duquesne seeking any comments/corrections. He acknowledged receipt and noted he would review them, advise of any corrections, and use them to keep track of items that he said he would follow up on. Minutes of the regular March 25, 2024 meeting were also approved as written.

Mrs. Livson extended a special thank you to Carmela Greco-Acevedo who each month makes arrangements for the CGCA’s Zoom meetings and to Dora Ashley who posts the Minutes and other information and maintains the CGCA website (cgca.info). She noted these two “behind the scenes” volunteers do a tremendous amount of work and deserve the thanks of all those who value the efforts of the CGCA.

### **FATAL ACCIDENT ON CENTRAL AVENUE**

Alan Fishman reported that on Sunday, April 14, 2024 about 6 PM a tragedy occurred on Central Avenue near the corner where he lives and where a sidewalk was recently constructed. A 57-year old woman who was walking her dog was hit in the middle of the intersection by an SUV. She was taken to the hospital in critical condition. He said he learned through a conversation with a Greenburgh police officer that the woman died last week. Mr. Fishman said at present it is unknown who was at fault. However, he expressed a great concern about the speeding that regularly occurs on Central Avenue and noted that years ago he learned from Police Officer Preiser who was doing traffic enforcement that some vehicles were traveling more than 30 miles over the speed limit. Mr. Fishman expressed sadness that another death had resulted on Central Avenue. He thanked Dylan Pyne for the wonderful job he was doing working with the Town on pedestrian safety and getting sidewalks.

### **MAJOR WATER MAIN BREAK IN NORTH END OF TOWN**

Ella Preiser reported that in the late afternoon on Tuesday, April 23, her sons informed her of a major water main break in the north end of Town that left area businesses off of Route 9A as well as residents in the Beaver Hill, Westchester Hills, Pocantico Park, Knollwood Manor and Mayfair Knollwood neighborhoods without water. Tom Bock noted that Payne Street area residents were also affected. Mrs. Preiser noted she was able to obtain a couple of pails of brown water to flush the toilet with before it ceased, but many residents arrived home with no advanced notice. When water was restored, brown water filled their toilet tanks and hot water heaters. She noted Supervisor Paul Feiner did post a brief mention of the water main break on the Town’s website, but very few people receive automatic alerts. Mrs. Preiser said she understands that Warehouse Lane in the vicinity of the Amazon warehouse is covered with a thick layer of mud that washed down from this break.

Councilman Francis Sheehan said the Water Department hasn’t located the pipe yet. Originally they thought the break was near the Coca Cola property, but apparently the pipe is located further west on County-owned property

and buried under about 40 feet of dirt and debris. He noted the pipe was not buried that deep originally but it appears the site was used as a dumping ground for construction work in the area and contains a lot of debris including old toilet fixtures. He noted because of the depth, it is not possible to dig straight down. He also pointed out that because most of our water supply has built-in redundancy, it was possible to restore water to the areas rather quickly.

Dorrine Livson agreed that the average resident does not check out the Town's website on a regular basis or is not always even hooked up to a computer. She suggested that the Water (and Sewer) Department could data-base all those within a particular district and then if there is a break or a problem, they could put out a robo-call to those who will be impacted. She will forward this suggestion to DPW Commissioner Rich Fon.

#### **ADU PROPOSED LAW - NO UPDATE**

It was noted that CD&C Commissioner Garrett Duquesne promised that he would provide the CGCA with a link to a Town Board work session when he presents information about the proposed law to create Accessory Dwelling Units (ADUs) in Greenburgh. This presentation would be given at least two weeks in advance of a Public Hearing so the CGCA could distribute the proposed law and the link to its membership. To date, nothing has been listed on work session agendas about this issue.

#### **HEARING HELD ON SOLAR ENERGY ZONING MAP CHANGE**

Ella Preiser reported that at the Town Board meeting on April 24, 2024, a Public Hearing was held regarding placing a Solar District Overlay provision on the Town's Zoning Map. She noted on March 27, 2024, the Town Board approved an addition to the Town's Zoning Ordinance of the Solar Energy Systems Local Law which included a Four Tier system. Under this law, a solar farm requires at least four acres and in granting this use the Town Board is required to hold a Public Hearing to amend the Zoning Map with the overlay district.

#### **HARTSDALE GREENHOUSES - ZBA DECISION ADJOURNED AGAIN**

Carol Wielk reported that at its March 21, 2024 meeting, the ZBA members took a straw vote to deny the Hartsdale Greenhouses revised application to store and sell firewood logs and mulch (processed at some unknown site) for ten years at its Secor Road site. The application was adjourned "for decision only" to the April 18 meeting. However, at that meeting, Ms. Wielk noted more time was necessary to prepare the findings and the decision was adjourned again to the May 16 ZBA meeting. Ella Preiser noted this was the 10<sup>th</sup> adjournment on this application. She could not recall any other application being adjourned that many times.

#### **ESCO CONTINUES TO BE COSTLY TO THOSE ENROLLED**

Ella Preiser reported that the thousands of residents and small business owners that the Town enrolled in the ESCO Constellation for their electric supply continue to pay much more than those who "opted out" of this contract and who pay the default Con Edison rate for their supply. The current 2-year contract costing 15.128 cents per kWh began with the November 2022 meter-read date and will continue until the meter-read date this October. Mrs. Preiser noted she, Dorrine Livson and Ken Stahn paid only 9.64 cents per kWh, mainly for the month of March. That is 36+% less than the ESCO charges. This makes 17 months in a row that this contract has cost more to those enrolled, most without their knowledge or permission. No doubt some of those enrolled in this contract are living paycheck to paycheck and paying this higher rate really hurts.

#### **UPDATE ON THALLE APPLICATION TO ZBA**

Madelon O'Shea welcomed Liz Gerrity and thanked her for her willingness to attend tonight's CGCA meeting. Ms. Gerrity said she has worked for the town for 25 years, first as a paralegal in the Attorney's office, then as Secretary to the ZBA, then as an Assistant in the Building Department, and now as Deputy Building Inspector. Those present at the meeting welcomed Ms. Gerrity, introduced themselves and identified their respective neighborhoods.

Ms. Gerrity provided the following history of the Thalle Industries application before the ZBA. The subject site is located at 50 South Warehouse Lane in the area north of the Village of Elmsford, near the Paws Crossed animal shelter and Brookfield junk yard and adjacent to the Saw Mill River. She noted that in 2001, then Building Inspector John Lucido issued a Notice of Violation to the owner, Robert Martin Company (RMC), for operating a rock crushing operation at the site without a Special Permit. RMC was developing the Warehouse Lane properties and had sublet the subject property to Thalle Industries who accepted rock and fill and crushed the rock and resold it for profit. An application was filed and a Special Permit was granted by the ZBA in 2002 with the following conditions: Maximum height of piles 30 feet; storage of no more than 10,000 cubic yards of material; no hazardous material or petroleum contaminated earth; no dust; no effluent; operating time Monday through Friday between the hours of 7:30 AM to 7:00 PM; and filing a letter with the Building Inspector each December certifying compliance with all conditions and stating there were no violations. Between 2003 and 2018 letters were filed annually and the permit was renewed. The last letter of renewal was issued by former Building Inspector Steven Fraietta in January 2019, and that means the Special Permit would expire on January 1, 2020. In July of 2019, a Notice of Violation was issued for electrical work done without a permit, the height of light poles and storage of materials not set back 25 feet from lot lines.

In 2022 Acting Building Inspector Robert Dam issued another Notice of Violation and there was no remediation. In 2023 current Building Inspector Frank Morabito observed piles over 60 feet high and monitors showing over 40,000 cubic yards of material including dirt and liquid waste. There was no storm water protection in place and muddy water could be seen leading onto adjacent properties and into the Saw Mill River. There was no response to a Notice of Violation issued in April of 2023 so in July of 2023, a Stop Work Order and a Notice of Non-Renewal were issued. In August 2023 the Building Inspector also issued notice that building permits and inspections were required for various structures, electric and plumbing devices, and diesel storage tanks on the property. Thalle filed an "Appeal" application with the ZBA arguing that the Building Inspector lacked authority to issue a Stop Work Order or Notice of Non-Renewal. Because of the Appeal, all enforcement is "stayed" until the ZBA issues its decision.

Councilman Francis Sheehan said he has never seen a case before the ZBA that has taken this long. The Town's Engineer has issued his decision but the ZBA wants its own consultant to determine whether the Engineer's decision is correct. Mrs. O'Shea inquired whether Thalle had done anything the Building Inspector requested. Ms. Gerrity replied there has been some response. She noted, however, when the ZBA issued the Special Permit in 2002, the property was vacant land. Since then Thalle has made many improvements, all without building permits. Trailers have been converted to employee resting areas and bathrooms. Electrical wiring both above and below ground and high voltage transformers have been added. Some on-site tanks holding almost 16,000 gallons of diesel fuel have been inspected by Westchester County but not by the Town. Ms. Gerrity noted that even if the ZBA grants a Special Permit, before Thalle can file for building permits to legalize these structures, according to §285-55 of the Zoning Ordinance, they must file for and receive Site Plan approval or a waiver from the Town Board.

Ms. Gerrity noted that if the ZBA grants Thalle a Special Permit, the "Appeal" goes away. But if the ZBA agrees with Thalle that the Building Inspector lacks authority to issue Stop Work Orders or Non-Renewal permits, every condition placed on applicants in ZBA or Planning Board cases becomes unenforceable. Carol Wielk noted this would result in a very dangerous condition and asked if anything could be done. Ms. Gerrity responded that the Town could seek injunctive relief from the court under eminent peril, but that would be a very high threshold to meet. Mrs. O'Shea asked how realistic the threat was that Thalle could pack up and go north. Ms. Gerrity said Thalle has some major investments and she noted the recycling of materials is an important endeavor. She said Thalle has tried to put in some improvements such as storm water measures, however, without permits and not to the standards the Town Engineer would recommend. She noted water still flows across the roadway into a ditch and then into the river without the contents being tested. She said it is shocking to her that the DEC allows the

acceptance of dirt, asphalt and rock if it looks and smells clean but without testing. Thalle says it is technically not fill, since it is placed on flat land and they are getting rid of it so they don't have to comply with testing.

It was noted the Town Engineer is very apolitical. His opinion is different from Thalle's. Thalle claims they fall under other standards and Town standards don't matter. Thalle submitted letters to the Town claiming they are in compliance with the 30 foot pile height and 10,000 cubic yards restrictions. However, photographs of people standing next to a pile tell a different story. Thalle actually wants unlimited pile heights and no oversight by the Town on amounts or types of material accepted.

Ellen Foley inquired about the 16,000 gallons of diesel fuel on the site. Ms. Gerrity said it has not been inspected by the Town but has a sticker stating it was inspected by Westchester County. These tanks are right up against the rock face. She expressed concern that possibly an earthquake could cause rock to fall and damage the containers. Thalle claims they are double-walled containers so they are compliant and there is no danger of a break which would cause a massive spill.

Ms. Gerrity noted that Town staff have been meeting with Thalle representatives, hundreds of hours, over several months. She said she is concerned about the pile that a trucker sees upon entering the site. There is "rilling" in this vertical pile, water seeping down that rills into the mountain of dirt that could cause the pile to collapse. She noted her concern is reinforced by the Town's tactical Police Lieutenant who is concerned that piles higher than 30 feet will raise a hazard to officers responding if an accident occurs and a rescue is needed.

Ms. Gerrity noted Thalle has a DEC permit and the Mine Safety Health Association (MSHA) has inspected the property. But, this is not a MSHA site. OSHA has not inspected in some time, but OSHA only is concerned for worker safety, not people going in or out of the site, or the safety of surrounding properties.

Planning Commissioner Garrett Duquesne presented a conditional SEQRA Neg Dec which he hoped the ZBA would vote on. The Neg Dec was written based on comments he received from the ZBA. A month later they had a different opinion. They are now at a stand still waiting for an independent engineer to look at what the Town Engineer put forth. Ms. Gerrity emphasized that Thalle has been able to occupy this site for decades without any regulations or permits.

Various questions were asked about whether the Town needs Thalle. Ms. Gerrity said the Building Department should not opine on whether or not the business is needed. She noted in its infancy Thalle crushed rock and sold it. If you needed gravel, it was the place to go. Her concern today is the proximity to the Saw Mill River and what runs off onto the road and bike path, the increased truck traffic into and out of the site, the untested dirt brought in and sold as fill, and primarily safety. Ms. Foley noted that if there was an accident on the site, the Town could bear great liability. Other businesses can say Thalle is doing it, why can't we?

Tom Bock noted he has been aware of problems on this site for years and it is heartening to know that the Building Department has finally taken the initiative. He wondered why it took so long. Ms. Gerrity noted it appears the applicant submitted a letter each year and the Building Department signed off without doing an inspection. She noted Thalle brought in fill and raised the grade of their property about 15 feet. She noted when the ZBA issued the original Special Permit, the property was level with the roadway. Dorrine Livson said she attended a few meetings or watched them on the website and noted the Town Attorney stood up in front of the ZBA and laid out conditions. Mike Burdi noted Thalle's attorney brought in retired experts who appeared to counter everything the Town said. Ms. Gerrity noted that after meeting multiple times the Town and Thalle have finally come to a resolution on a number of things. But more is needed.

Mr. Burdi inquired whether it had been made clear to Thalle that they need a site plan. It has. He noted that at one of the televised meetings Thalle stated that if they closed, Con Edison, Greenburgh and other municipalities

would have to travel several miles north to deposit or obtain fill, gravel, etc. He inquired about property tax implications. Ms. Gerrity said she would have to check with the Assessor but she believes Thalle is still renting the property and it is still assessed as vacant land.

Mr. Sheehan said the Town is currently at an impasse and is not willing to compromise past the point of safety. He noted our experts are saying to compromise anymore would be unsafe.

It was noted that Ms. Gerrity had several documents that she could share with those in attendance to more easily explain the issues, but unfortunately the host of the Zoom meeting was not available to allow sharing of the screen. Ms. Gerrity agreed to send copies of the documents to the CGCA and they will be forwarded to all. It was agreed that at future CGCA Zoom meetings, arrangements will be made for a co-host.

Dylan Pyne noted that democratic elections means there is a check on Town Board members. He questioned what is the check on ZBA members? He noted for two meetings there have been discussions on when terms expire for various board and committee members. He inquired about the status. Ms. Wielk agreed with Mr. Pyne's views and noted someone has to discuss with ZBA members how serious the Thalle issues are. Mrs. O'Shea asked Councilman Sheehan if he could respond. Mr. Sheehan noted the ZBA is an independent body and Town Board members cannot influence them - the Westchester County Supreme Court is the ultimate check. He noted the new Town Clerk is working to update information on the terms of ZBA (and other board and committee) members. He commented that members of the public have said there should not be an automatic renewal when a term expires.

Mrs. Livson noted that Thalle appears to be doing exactly what Hartsdale Greenhouses tried to do. Operations were carried on illegally for decades and when discovered they asked the ZBA for approval. Ms. Wielk asked what the CGCA can do. Ella Preiser asked if Thalle will be back on the ZBA agenda any time soon. Ms. Gerrity responded that currently the only plans are for a special meeting with the ZBA. Mrs. Preiser asked that the CGCA be given notice well in advance of any public hearing so we can prepare a strongly worded letter. Mr. Sheehan said it would be best for someone to actually attend the ZBA meeting to read such a letter into the record. All agreed. It was noted CGCA intervention appeared to influence the decision in the Hartsdale Greenhouses application. And the ECC involvement definitely was a bonus.

### **CHICK-FIL-A SEEKS MULTIPLE VARIANCES**

Madelon O'Shea thanked Maria Gomez for the work she has done regarding the application filed by Chick-fil-A (CFA) for variances to open an eatery at the Tarrytown Road and Old Kensico Road site currently occupied by a vacant CVS store. Most of the property is in Greenburgh but a 19,000+ square foot portion of the property is in the City of White Plains. Ms. Gomez explained that in May of 2022, CFA made changes to the original plan after White Plains informed them they did not want a shed and garbage dumpster on Tarrytown Road. The plans relocated the shed/dumpster to Greenburgh on the portion of the property at the intersection of Old Kensico Road and County Center Road, closest to the residential area. The application is currently before the ZBA for twelve variances. Two variances were requested to locate the shed/dumpster less than the required front and side yard setbacks. Ms. Gomez contacted CD&C Commissioner Garrett Duquesne and pointed out another provision of the Zoning Ordinance and inquired why a variances wasn't needed to locate this accessory structure in the front yard (Old Kensico Road). She has not heard back from him but believes CFA will need 13 variances, not 12. Tom Bock suggested the number of variances is proof this use is too big for the site and will increase traffic to the point of choking the Fulton Park neighborhood.

Mrs. O'Shea mentioned that Westchester County raised concerns that this application does not comply with Westchester 2025, with the Greenburgh Comprehensive Plan or with the Greenburgh Zoning Ordinance requirement that fast food establishments cannot be within 2,000 feet of each other. She noted there is a Smashburger in the shopping center lot directly across Tarrytown Road. She said the New York State Restaurant

Association considers Smashburger as “fast casual.” Ella Preiser noted the Town claims it is a restaurant. Ms. Gomez raised questions about other local eateries, such as Golden Crust, Panera Bread, and Chipotle. She suggested there should be a moratorium until the Town comes up with a definition of “fast casual.” She noted that Mr. Duquesne says “we’re working on it.” Alan Fishman said at a CFA in Florida, when you enter, they lead you to a table, take your order and deliver food to the table.

Ms. Gomez said the Planning Board is Lead Agency so it doesn’t have to listen to what the County says. Regarding traffic, Mr. Bock noted the CFA attorney knew what to say and when the representative from 110 County Center Road (former Verizon building) had a suggestion regarding traffic, the Planning Board Chair said he would sit down with him to make it work. The applicant has said CFA could use the White Plains lot for overflow of traffic. However, White Plains has said it wants the lot of 30 parking spaces to be used for parking of employees’ cars only.

Ms. Gomez noted the applicant emphasizes that it is reducing the size of variances currently at the existing CVS. She said the Planning Board Chair indicated after they get the variances, the Planning Board will hold a Public Hearing and listen to what people say and then work with the applicant to grant the approval. It appears it’s a done deal!! At the April ZBA meeting, a question was raised whether the building could be made smaller.

Ella Preiser thanked Ms. Gomez for watching all the previous Planning Board meetings and summarizing what took place. She noted the CGCA letter presented into the record at the April ZBA meeting was very general. A much stronger letter can be prepared for the May ZBA meeting.

Deputy Building Inspector Liz Gerrity said that the Building Inspector has issued a revised memo indicating that an additional variance is required to locate the shed/dumpster in the front yard.

### **FLOODING IN FULTON PARK**

Tom Bock reported the Fulton Park neighborhood has lots of new people and they are reorganizing. Supervisor Paul Feiner was invited to one meeting. The neighbors noted Mr. Feiner would deflect when asked certain questions about flooding. Mr. Bock said flooding continues to be their number one concern. He noted those with homes on his side of Old Kensico Road have been installing trash pumps to pump water from their backyards over the aqueduct into the woods behind their homes. When they asked the Town to keep Manhattan Brook clean by the overpass on Old Kensico Road, they were met with resistance, particularly from DPW Commissioner Rich Fon who said it was too difficult to do. Mr. Bock noted it was a condition when the Army Corps of Engineers installed it that the Town would maintain it. He said it becomes a choke point as too much water comes raging down the street. During the last flooding event, Westhab from Yonkers donated sand bags to neighbors to block water from entering their driveways. Mr. Bock said he has a breakfast meeting scheduled with County Executive George Latimer to see if there is money available from the County. Mr. Bock said he understands the Town is now cleaning the Saw Mill River of debris every year. He wants the County to clean the Bronx River or dredge it. He said he can show where crap is located in the Bronx River. He noted studies are being done for Hartsdale Brook and Troublesome Brook but if you don’t deal with the total river it will just move the problem to another area.

Mr. Bock said one new neighbor said he worked with an emergency management group and there are solutions we could implement. Neighbors asked Mr. Feiner to have the Town Engineer come up with a solution. Flooding is so bad, one neighbor installed two trash pumps in his yard, has two sump pumps in his driveway and one sump pump in his house. Mr. Bock said there is video showing water overflowing at the channel built under Old Kensico Road that goes to where the aqueduct is. He noted all the debris probably starts where BJs is or at Stickley’s. He suggested installing a chain link fence at the Stickley site to catch the debris but the Town Engineer said it would just create another choke point. Mr. Bock said he thinks it would be easier to do necessary cleaning

and maintenance at a site that is easier to access than to have the debris clog the Old Kensico Road site which is fenced in and difficult to get to.

Ella Preiser said there is a front page article in today's (4/26/24) *The Journal News* that U.S. Rep. Mike Lawler secured \$2 million to jumpstart a project by curing chronic flooding at a site in Carmel, N.Y. Apparently federal funds are available. Greenburgh just doesn't apply for it.

Maria Gomez noted that one of her neighbors in Fulton Park, a recent widow, has decided to sell her house so she doesn't have to deal with any more flooding alone. She put the house on the market but actually had to cancel an Open House this weekend because an event at the County Center left no place for visitors to park near her home.

Mr. Bock said in two weeks he will be installing a heat pump system, mounted ten feet above ground on the side of his garage with the air handler in the attic. Since the system provides both heat and air conditioning, he will then decommission his gas furnace. The electricity will not be that costly as he has solar panels on his roof. The only things left in his basement will be the hot water heater, the washer, the dryer and the dehumidifier. When the hot water heater goes, he will install a new one in his garage above the flood level. He estimates the next flooding event will only cost him about \$1,000 instead of the \$5,000 recent events have cost.

#### **THE SAFETY OF PUBLIC SPEAKERS A CONCERN**

Madelon O'Shea said she and a number of residents feel uncomfortable speaking out at Hearings before the Town's various Boards. She mentioned the terrible treatment that Secor Homes Civic Association President Carol Wielk received at ZBA meetings, both from ZBA members and an applicant. Mrs. O'Shea also noted that at another meeting as she was speaking at the microphone, a man approached her rudely and wanted her to sit down. She said this was one of the reasons her husband used to accompany her to meetings and she no longer feels comfortable attending meetings alone.

#### **INCREASE IN ASSESSMENTS QUESTIONED**

Enrica Staeger inquired whether there is going to be another reassessment. She noted every year her assessment goes up. Councilman Francis Sheehan responded that if everybody's assessment goes up \$30,000 there is no tax impact. He noted the Town is required to maintain 100% assessed value and this year everyone's assessment went up about 5.9%. He noted those who made improvements on their properties may have seen larger increases in their assessments and those who successfully filed grievances may have seen lower assessments.