

**THE MINUTES  
FOR THE JUNE 28, 2018  
MEETING OF THE BOARD OF TRUSTEES  
OF THE INCORPORATED VILLAGE OF NORTHPORT  
REGULAR MEETING  
6:30 PM.**

**PRESENT:** Mayor McMullen, Trustee Milligan and Smith, Village Clerk Donna Koch, Village Attorney Stuart Besen,

**RESOLUTIONS:**

Before the vote on the resolution Trustee Maline asked that the following statement be read into the record; I am unable to attend this Board meeting in the middle of the afternoon despite trying to have the time changed. I have private work obligations which I cannot reschedule or miss. I have reviewed and provided comments regarding: Resolution 2018-117 Determination - and agree with passing this resolution as proposed which remands back to the Board of Architectural and Historic Review Board it's determination that 51 Mariner's Lane is 100 years old and denied permission for a demolition permit. I am in full agreement that this determination was not supported by the evidence presented and that the 51 Mariner's Lane is not Historically significant and that permission for a demolition permit should have been granted.

Mr. Besen stated for the record; pursuant to Village Code 15-9C within sixty days of the filing of determination of the Board of Architectural and Historic Review (ARCHIE) that historic plan review is required pursuant to if an aggrieved party files an appeal to the Board of Trustees. The Trustees received a record and written appeal from Mr. Modelewski on Tom Kehoe's behalf. It was distributed to the Mayor and Trustees for review. No new evidence could be submitted or considered by the Board of Trustees so this is not a new hearing. After the Board of Trustees reviewed it, the Board had two choices, one to reaffirm the Board of Architectural and Historic Review Board decision or they could reman it back to the ARCHIE Board for re-consideration based on a written determination. What is on today's agenda is the written determination which spells out why they are remanding it back and why they feel the ARCHIE Board should reconsider their determination not to issue a demolition permit.

A heated discussion ensued which lasted for over an hour with The Observer Editor, Dave Ambro, stating he felt that this board was rushing into their decision because the applicant is a Village Trustee and it doesn't look good. Trustee Milligan stated it has never been done before where an applicant files an appeal against the ARCHIE Board.

Mayor McMullen stated it is being done today so that it gets to the ARCHIE board by

their July 5<sup>th</sup> meeting. There is no August meeting and if we waited it would not be heard until the September meeting.

ARCHIE Chairman, Gary Blake stated that when the application was first heard, they were not ready to make a determination. Then at the next meeting (which Mr. Blake was not present for) the Board made a decision because Mr. Modelewski “scared the crap out of them”. He questioned if the ARCHIE Board could bring in an expert to rehear the application. Mr. Besen stated Mr. Blake would be best to speak to the ARCHIE attorney Ed Gathman.

Trustee Smith stated they were given the letter of determination and she was ready to vote on it according. Also she requested a special meeting to hire a firm for the installation of the cabling for the data back-up and was glad to get that moving.

ARCHIE member Andrea Miller stated she felt bullied to make a decision at the last ARCHIE meeting by Attorney Christopher Modelewski. Ms. Miller felt that procedure wasn't followed. When the applicants for the Inn came to the ARCHIE Board there was a public hearing and the Board was offered a tour of the existing building. Trustee Milligan replied this is the first time that something like this has happened when someone has sent an appeal to the Board of Trustees, they will listen to the advice of the Village Attorney and act accordingly.

On the motion of Trustee Milligan and seconded by Trustee Smith the following resolution was unanimously approved.

**RESOLUTION 2018- 117 ~ DETERMINATION**

**BE IT RESOLVED:** The Northport Village Board of Trustees hereby adopts the following determination and remand it back to the Board of Architectural and Historic Review Board for re-consideration;

On May 11, 2017 the house located at 51 Mariner's Lane, Northport, New York suffered extensive fire related damage throughout the entire structure. Since the date of the fire the building is uninhabitable. The report authored by Pericles C. Stivaros, Ph.D., P.E., of GEI Consulting recommends that the house be demolished and replaced. The Village of Northport has declared the house as unsafe for occupancy.

On June 14, 2018, Thomas J. Kehoe, as Executor of the Estate of Carole Cassidy (Hereinafter “Applicant”), by his attorney Christopher Modelewski, Esq., filed a written appeal to the Northport Village Board of Trustees (Hereinafter “Trustees”), pursuant to Section 15-9(c) of the Village Code (Historic Review). The appeal seeks to annul and set aside the Resolution of the Board of Architectural and Historic Review (Hereinafter “Board of Historic Review”) denying applicant the following:

- a. a determination that the house was less than 100 years old;
- b. a demolition permit to take down the remainder of the house that was destroyed in a fire on May 11, 2017; and
- c. the applicant's request to construct a home in conformity with the plans

presented by George Suddell on May 2, 2018.

The Northport Village Code under Section 15-9(c) of the Historic Review permits an aggrieved party to file a written appeal to the Board of Trustees by filing same with the Village Clerk. The appeal is limited to the record made before the Historic Board and no new evidence shall be permitted to be submitted to or considered by the Board of Trustees. The Village Board may affirm the decision or remand it back to the Historic Board to reconsider based upon the written determination of the Board of Trustees.

The documentary evidence and testimony of the Board of Historic Review included the following:

1. Report by GEI Consultants, Inc., by Pericles C. Stivaros, Ph.D., PE;
2. Letter from Timothy Brojer, Northport Village Administrator;
3. Census from 1978; and
3. Testimony from George Suddell, RA, AIA

The Village Board of Trustees determines the following based on the documentary evidence as described above and the testimony presented to the Board of Historic Review on May 2, 2018 and June 6, 2018.

A. Despite the overwhelming evidence to the contrary the Historic Board by decision dated June 6, 2018, determined that the house destroyed by fire at 51 Mariners Lane, Northport, New York was over 100 years old. The determination was strictly based on the census of homes conducted in 1978. The census alone does not prove that the house destroyed on May 11, 2017 was 100 years old. No back up information was provided and no methodology was provided in how the house was determined to be 100 years old. To the contrary there was ample evidence in the record that the building that burned in the fire was built in the 1940's. Besides the report of GEI which states that the house is reported to have been built in the 1940's, there is the letter from Timothy Brojer, Northport Village Administrator, who is also the head of and in charge of the Northport Village Building Department.

Mr. Brojer did a personal inspection of the remaining structure at said premises and found the structure to contain a poured foundation, asbestos shingles, framing that is 16 inches on center and galvanized nails. Based on his inspection and findings he estimated that the burned down house was built in the 1940's. This confirms what is in the GSI report. It is important to note that the Code at Section 15-3 states that all complete applications for a building permit or demolition permit for all buildings that the **Building Inspector determines to be 100 years old or more shall be referred to the Architectural and Historic Review Board.** In this matter the Village Administrator who is in charge of the Building Department inspected the premises and determined that the structure burned was built in the 1940's. Despite this fact the Historic Board failed to give any weight to this compelling evidence submitted by Mr. Brojer.

Finally, George Suddell who is an architect that has been involved in Northport Village for a long time and was retained by applicant states in his affidavit that "As a registered architect in the State of New York, I concur with the determination of Mr.

Brojer and submit to the Board that the home located at 51 Mariners Lane is not 100 or more years old. It may be that there was a dwelling on that lot more than 100 years ago, but the fire damaged building currently on that lot is not 100 or more years old." He further states that there was nothing of any historical significance on the site, and the present structure should be demolished and replaced in accord with the recommendation of the Engineers at GEI.

**The Board of Trustees remands the determination dated June 6, 2018, back to the Board of Architectural and Historic Review Board and determines that The Architectural and Historic Review Board find based on the evidence and testimony that the structure destroyed in the fire at 51 Mariners Lane, Northport, New York was not 100 years old and instructs the Northport Building Department to issue a demolition permit.**

B. In addition to the above, there was no determination by the Historical Board that the house was a historic building as is required by Section 15-2 Definitions and 15-4 Criteria for historic determination of the Northport Village Code. Therefore, the Historic Board in failing to determine that the house was historic should not have denied the applicant a demolition permit. In fact, there is no decision that said structure is historic and no decision how said structure would meet the historic criteria. The Village Board determines that there is no evidence presented which demonstrates that the house at 51 Mariner's Lane had any historical significance pursuant to the criteria established by Chapter 15 Historic Review.

Specifically, the review by the Board of Architectural and Historic Review Board requires applications for demolition permits or building permits that are 100 years old or more **and** meet historic criteria to be considered historic buildings pursuant to Section 15-2 of the Northport Village Code. If a building or structure is 100 years old but does not meet the historic criteria it is not considered a historic building under Section 15-4 of the Village Code. Once again there is no decision by the Board of Architectural and Historic Review that said premises meets the historic criteria as enunciated in Section 15-4 of the Northport Village Code. There is no decision by the Board of Architectural and Historic Review Board that the destroyed structure is a historic building. There was no showing that the structure destroyed by fire had any importance to the Village or had special character or architectural, engineering, cultural, historic or aesthetic benefit to the Village of Northport.

**The Board of Trustees remands the determination dated June 6, 2018, back to the Board of Architectural and Historic Review Board and determines that the Board find based on the evidence that the structure does not meet the criteria of historic, and that the structure is not historic and that applicant should be allowed to immediately apply for a demolition permit and Building Permit pursuant to the Zoning Board Decision dated June 6, 2018.**

Based on the recommendation of the Northport Village Board of Trustees it is hereby remanded back to the Board of Architectural and Historic Review Board to reconsider the application. After reviewing the evidence and testimony it is our finding that the house was not 100 years old and/or did not meet the criteria for historic and is therefore not a historic structure. It is further remanded for the Board of Architectural and Historic Review to reconsider that the structure is destroyed by fire and is inhabitable and may be a safety problem. It is a hardship to both the applicant and community at large to continue denying applicant a demolition and building permit. We respectfully request that the Board act accordingly to this written determination by the Board of Trustees.

On the motion of Trustee Milligan and seconded by Trustee Smith the following resolution was unanimously approved.

**RESOLUTION 2018- 118 ~ ELECTRICAL SYSTEM UPGRADE**

**BE IT RESOLVED:** Village Administrator Tim Brojer is hereby authorized to canvas for bids in regards to the Electrical System Upgrade at the Waste Water Treatment Plant.

On the motion of Trustee Smith and seconded by Trustee Milligan the following resolution was unanimously approved.

**RESOLUTION 2018- 119 ~ E-SCOPE SOLUTIONS**

**BE IT RESOLVED:** The Mayor is hereby authorized to sign a contract in a form and content approved by the Village Attorney, with E-Scope Solutions Inc. to provide cabling and installation services for data networking system security, in an amount not to exceed \$20,000.

The next regular meeting of the Board of Trustees will be on July 17, 2018, at 6:30 P.M

**A RESOLUTION FOR AN EXECUTIVE SESSION:** if necessary, for personnel and/or litigation matters.

Respectfully submitted,

---

Donna M. Koch, Village Clerk