

VILLAGE OF PELHAM BOARD OF TRUSTEES SPECIAL MEETING
TUESDAY, MARCH 27, 2007, 7:30 PM
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

AGENDA

1. Call To Order
2. Pledge of Allegiance
3. Mayor's Report
4. Trustees' Reports
5. Village Administrator's Report
6. Public Comment

Approximate
Agenda Items: Time
of Discussion

	Site Plan Review – Public Hearing	7:35 PM
7	Public Hearing and Consideration of a Site Plan Application, pursuant to Chapter 79 of the Pelham Village Code, for the following project: Phase 1 Rock Cliff Remediation, Pelham Medical Group Building, 116-120 5 th Avenue	Site Plan Approved
8	Adjournment, into Budget Work Session – Building and Fire	

NEXT REGULAR BOARD MEETINGS ARE

Tuesdays April 10th and April 24th 2007

* There will be no Board Meetings during the week of April 2nd, due to the holidays.

All meetings start at 7:30 p.m. unless otherwise noted.

Agenda is subject to change until the night of the meeting.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
MINUTES
TUESDAY, MARCH 6, 2007, 7:30 PM
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Michael J. Clain at 7:45 p.m.

The following members of the Board of Trustees were present:
Mayor Michael Clain, Greco, Homan, Hotchkiss and Potocki. Trustees Merrick and Mohan were absent.

Village staff in attendance:
Administrator/Treasurer Richard Slingerland, Administrative Aide Devron Wilson, Building Inspector Leonard Russo. Planning Board Chairwoman Gwen Tapogna was also in attendance.

Item #2 – Pledge of Allegiance:
The Pledge of Allegiance was led by Mayor Michael J. Clain.

Item #3 – Mayor's Report:
Mayor Clain announced that Trustee Theresa Mohan would be resigning effective this weekend, due to demands of her personal life. He said she was a wonderful addition to the board, and we wish her well. Mayor Clain announced that at the request of Mayor-elect Hotchkiss, Trustee Mia Homan had agreed to serve for another year, to fill the unexpired portion of Trustee Theresa Mohan's term.

Item #4 – Trustees Reports:
The Trustees had nothing to report.

Item #5 – Administrator's Report:
The Administrator had nothing to report.

Item #6 – Public Comment:
The Public had no comment, except for the Public Hearing on Pelham Medical.

Item #7 -- Public Hearing and Consideration of a Site Plan Application, pursuant to Chapter 79 of the Pelham Village Code, for the following project: Phase 1 Rock Cliff Remediation, Pelham Medical Group Building, 116-120 5th Avenue

Attorneys Brian Belowich and Michael Schwartz represented the Pelham Medical Group application, a.k.a. I & R Realty Management. Dan Muro of All-Rock Crushing and Dave Myers, Geotechnical Engineer were present and part of the presentation team.

After some brief discussion of the proposal, Mayor Clain asked if Pelham Medical Group (PMG) had reached a contract agreement with All Rock Crushing, the company it had presented to the Planning Board as the contractor responsible for implementing the proposed remediation, which company had prepared the detailed rock removal specifications contained in the Plans before the Board of Trustees. After some discussion, with negotiations taking place in the back of the Board Room, the group came forward and announced that they had reached an agreement and signed a contract with All Rock.

Dan Muro of All Rock Crushing presented the plan and rough schedule for remediation. Some particulars included a plan to complete the rock remediation work in about 90 days, and the need to remove 5-6 truckloads of rock per day. Additional details were discussed, which were addressed by the Building Inspector and the Planning Board Chairwoman. These items were further detailed in the Resolution and the Planning Board's memo recommending approval, which was appended to the approval resolution.

PMG's attorney's objected to provisions in the Site Plan Approval resolution, which referenced All Rock Crushing, and asserted that the Village cannot mandate the applicant to use a particular contractor. Mayor Clain explained that the Village was not seeking to mandate a particular contractor, but it had an obligation to review the qualifications and experience of the contractor proposed by the Applicant. He continued that the Village had reviewed and was satisfied with the qualifications and experience of All Rock Crushing, and it intended to approve the Applicant's use of All Rock Crushing as the contractor responsible for the rock removal and cliff remediation work contemplated by the Plans before the Board of Trustees. He emphasized that the Applicant was free to replace All Rock Crushing at any time by filing an amendment to the Plans that set forth the qualifications, experience and proposed methods of the replacement contractor, subject to review and approval by the Board or Trustees, based on the recommendations of the Building Inspector, the Village's consulting engineer and the Planning Board.

Dan Hollis, Esq., representing Lordae Realty, presented two issues he requested be addressed. These included protection of the Rigatoni Restaurant side of the building with geofoam and an earthen berm, and a bonding provision for the Applicant to remove any debris that fell on the Lordae property. Mr. Qureshi of 6th Avenue from behind the Applicant's property asked for an open, un-climbable fence to maintain the view towards the Downtown. Mr. Kahaner of 6th Avenue asked to confirm the baseline and pre-work surveys of the homes next to the work area, and those were confirmed.

After further discussion and exchanges, a number of amendments were made to the proposed resolution.

On the motion of Trustee Homan, seconded by Trustee Greco, the Mayor and Board voted unanimously by vote of five in favor, none opposed, to approve the site plan resolution (Trustees Merrick and Mohan absent), as follows:

RESOLUTION
AUTHORIZING THE PHASE 1 ROCK CLIFF CORRECTION AND
REMEDICATION
PLAN-OF-ACTION FOR PELHAM MEDICAL GROUP AS DISCUSSED
AT THE PLANNING BOARD MEETING OF MARCH 13, 2007 AND THE
VILLAGE BOARD OF TRUSTEES MEETING ON MARCH 27, 2007

WHEREAS, the Board of Trustees of the Village of Pelham (the "Board of Trustees") has reviewed:

- (i) the Planning Board Memo setting forth the Planning Board's report and recommendation, which Memo was prepared following discussion and presentation by Pelham Medical Group's (the "Applicant") Legal and Construction team, consisting of DelBello, Donellan, Weingarten and Tartaglia, and All-Rock Crushing, during the Planning Board Meeting held at 7:30 p.m. on March 13, 2007;
- (ii) the report and recommendation of the Village's Consulting Engineer, Robert Simpson, P.E., a Geotechnical Engineer with Carlin Simpson Consulting Engineers of Sayreville, New Jersey, relating to the rock cliff remediation plan (Phase 1) proposed by Dave Myers, P.E., of Clifton Park, NY, and All Rock Crushing of Croton, New York, (the "Plan"); and

WHEREAS, the Board of Trustees heard presentations of the Plan from the Applicant's attorneys, DelBello, Donellan, Weingarten and Tartaglia, Dave Myers, P.E. and Daniel Muro of All Rock Crushing, Inc., the Applicant's designated contractor, at the Board of Trustees Special Meeting held on March 27, 2007 at 7:30 p.m.

NOW THEREFORE, BE IT RESOLVED THAT this is an Emergency Action under SEQRA, which is a Type II Action, and therefore no further action is required under SEQRA; and

BE IT FURTHER RESOLVED THAT the Plan is found to be acceptable as a first phase interim measure, and the rock cliff remediation plan (Phase I), is accepted to remediate the unsafe condition, remove rock in preparation for the installation of a retaining wall and stabilize the rock slope on the cliff behind the building located at 116 5th Avenue, which building is owned by I & R Realty, d.b.a. Pelham Medical Group in preparation for the installation of a retaining wall (Phase II of the remediation plan), which will follow completion

of the Phase I cliff remediation plan as promptly as practicable and will constitute a long term remediation measure with respect to the cliff (such retaining wall to be the subject of a separate [Phase II] review and approval process); and

BE IT FURTHER RESOLVED, that the conditions and requirements of this approval include the following:

1. Any modification to the Plan or the identity of the rock cliff remediation contractor proposed by the Applicant as part of the Plan must be submitted to the Planning Board, the Building Inspector and the Village's Consulting Engineer for review and recommendation to the Mayor and Board of Trustees for consideration and approval.
2. This approval is conditioned upon the continued satisfaction of the Mayor and Board of Trustees with the experience, quality of work and level of expertise of all contractors employed by the applicant to implement the Plan.
3. A certification from the Project Engineer that the rock cliff remediation (Phase 1), has been completed, prior to the issuance of a building permit for the concrete wall construction (Phase 2).
4. Submission of a timeline for all work.
5. Submission of a plan for the maintenance and protection of traffic, including a plan for closures of the street to traffic and pedestrians.
6. A barrier of eight feet in height protecting the construction and demolition site area is required under New York State Law. An 8 ft. barrier closing off the alley-way at rear of stores north of the property must also be installed
7. Submission of appropriate Certificates of Insurance.
8. Submission of a Hold Harmless and Indemnification agreement shall be provided by the Applicant in a form acceptable to the Village naming the Village of Pelham and its officers, boards, agencies and officials is required, which agreement will include a statement that the Village is not responsible for any damage caused by the work.
9. On-site engineering oversight of all work shall be provided with such frequency as the Village may require and shall be paid for by the Applicant. Engineering reports shall be submitted weekly by the Applicant's engineer and site visits by Carlin Simpson shall be made at such times and with such frequency as the Village may require, after consultation with Dave Myers or All Rock Crushing.

10. Submission of a Performance Bond in the amount of four hundred thousand dollars (\$400,000) to ensure completion of Phase 1 and Phase 2 of the rock demolition and stabilization work and construction of the Retaining Wall.
11. Submission of pre-work structural surveys of adjacent residential properties to the east to document the existing conditions.
12. Applicant's contractor must provide vibration monitoring as per the spec booklet of March 6, 2007, and Planning Board Memo of March 23, 2007, of all properties adjacent to the slope, including the "Brick Park" 2nd Street public staircase.
13. Submission of a completed building permit application, along with the appropriate insurance including liability policies naming the Village of Pelham as an additional insured and payment of all appropriate fees for building and other permits paid to the Village. This includes the costs required pursuant to Sections 70 and 79 of the Pelham Village Code. The Applicant shall pay the amount of fifteen thousand dollars (\$15,000) into escrow on or before April 10, 2007, for application to professional review fees, some of which have been incurred prior to the date of this resolution.
14. All conditions set forth in the March 23, 2007 Planning Board Memo, a copy of which is attached hereto, are incorporated into and made a part of this Resolution, and compliance with the conditions set forth in the March 23, 2007 Planning Board Memo shall be required. To the extent that there is any conflict between the Planning Board's memo and the Board of Trustees' approval Resolution, the Board of Trustees' approval Resolution shall govern.
15. All conditions set forth in the February 27, 2007 letter prepared and submitted by Robert Simpson, P.E. of Carlin Simpson & Associates Engineers of Sayreville, New Jersey, a copy of which is attached and hereby incorporated into and made a part of this Resolution, and compliance with the conditions set forth in that letter shall also be required. To the extent that there is any conflict between Carlin Simpson's letter and the Board of Trustees' approval Resolution, the Board of Trustees' approval Resolution shall govern.
16. Should the Escrow account for professional review fees be depleted, additional payments shall be required of the Applicant within two (2) weeks of notice from the Village, or work shall stop.
17. All materials, rock and debris resulting from the Phase 1 remediation plan, including any materials, rock and/or debris that falls on the adjacent

Lordae Realty property shall be cleaned up and removed by the Applicant at Applicant's cost.

18. No Building Permit(s) in regard to the rock cliff remediation plan (Phase I) will be issued until all submissions required in this approval Resolution, in the March 23 Planning Board Memo and the letter(s) from Robert Simpson (unless such conditions are in conflict with this approval Resolution), are provided in a form acceptable to the Village Board of Trustees and Building Inspector.

BE IT FURTHER RESOLVED, that the Mayor, Village Administrator, Building Inspector and other appropriate Village officials are authorized to take the necessary and appropriate actions to effect this approval and authorize this remediation plan to proceed, including the imposition of additional conditions and requirements as may be necessary.

MEMO

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Date: March 23, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: Pelham Medical Group
Application for Remediation of the Rock Cliff – Phase 1
116 5th Avenue
Block 2, Lot 17

The Village of Pelham Planning Board (PB) met with the applicant on March 13, 2006.

The PB recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by Pelham Medical Group for Phase 1 remediation of the rock cliff at 116 5th Avenue (Block 2, Lot 17). Work shall be performed as documented in the Pelham Medical Group Phase 1 Plan (dated March 6, 2007) and as shown on Project Drawings S-1 through S-7 signed and sealed by David A. Myers, PE (dated 3/5/07 -Revised). This recommendation is based upon the PB's review of the documents and recommendations for approval from Bob Simpson, PE (Village's consultant - Geotechnical Engineer with Carlin Simpson Consulting Engineers of Sayreville, New Jersey) and Len Russo (Village of Pelham Building Inspector).

As a condition of approval, the applicant has agreed to the following:

- A minimum of 3 seismograph machines will be installed at the work site: one at the north property line, one at the south property line, and one at the east property line. Calibration Certificates for the machines, as well as seismograph reports taken during the work, are to be submitted to Mr. Simpson and the Village of Pelham Building Inspector. If the machines read vibrations of 2 inch per second or greater, work within 25 feet of the area must stop immediately and Mr. Simpson, the Building Inspector, and all adjacent property owners must be notified; work cannot recommence until approved by the Building Inspector.
- If required by the Building Inspector, the Contractor will be responsible for moving the safety barrier to the middle of 5th Avenue. The Contractor must coordinate this work with the Building Inspector and the Village of Pelham Police Department.
- Preconstruction surveys to document existing conditions must be performed prior to Building Inspector issuing the work permit. Survey areas to include adjacent residential and commercial structures and the adjacent street, sidewalk and curb.
- Due to the technical and hazardous nature of the work to be performed, a licensed Engineer must be on site full-time. This is critical at the beginning of the project to insure that work is being performed as specified. If approved by the Building Inspector and Mr. Simpson, inspections by the licensed Engineer may be reduced later in the project. Engineering reports must be submitted to Mr. Simpson and the Building Inspector weekly.

In addition, Carlin Simpson Consulting Engineers will have the right to inspect the site at least once a week, or as needed.

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In the event PMG does not provide oversight as stated above, Carlin Simpson would be required to conduct such oversight, at their discretion

PMG will be required to reimburse the Village for any costs relating to oversight or review performed by Carlin Simpson.

- It may be necessary to install anchors, bolts or other reinforcement to the newly exposed rock face. All additional work must be reviewed and approved by Mr. Simpson and the Building Inspector.
- Lordae Realty Corp. must be notified whenever work to be performed will be within 25 feet of their property.
- Prior to commencing work concerning the new 6 foot high fence along the east property line, the fencing scope of work shall be reviewed with the adjacent property owners and approved by the Building Inspector.
- The “Excavation” and “Inspection & Monitoring” notes on Drawing S-6 will be removed and a revised Drawing S-6 submitted to the BOT prior to the hearing scheduled for March 27, 2007.
- All Rock Crushing, Inc. installed the temporary Geofoam between the rock and the PMG building, was intricately involved in preparing the remediation plan and was listed as the contractor in the plans submitted to the PB. Therefore, any approval made by the BOT should be subject to any contractor other than All Rock Crushing, Inc. being approved by the DOB and Mr. Simpson. In the event All Rock Crushing, Inc. is not going to act as contractor, no work may take place unless and until such new contractor is approved. The Building Inspector and Mr. Simpson will meet with the proposed new contractor and PMG’s geotechnical engineer to determine whether that contractor has sufficient experience and the ability to perform the remediation. In addition, they will assess whether the new contractor is able to implement the proposed remediation plan without having to remove the Geofoam and dirt to examine the rock cliff. No further work shall take place unless and until Mr. Simpson and the Building Inspector issue a written approval authorizing any new contractor to perform work on the PMG property in regard to the remediation plan. In addition, in the event that the new contractor proposes any changes or revisions to the remediation plan, such changes or revisions would be subject to review by the PB and the BOT’s approval.
- For protection, berms and Geofoam will be installed along the Lordae building to the north. Protection must not block egress from the rear of Lordae Realty Corp.’s building and should be approved by Lordae Realty Corp.’s engineering consultant prior to commencement of the work. Berms, Geofoam and other safety measures must be properly maintained throughout the project.



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27 February 2007

Village Hall
195 Sparks Avenue
Pelham, New York 10803

Att: Mr. Richard Slingerland

Re: Review of Phase I Plan, dated February 16, 2007
Pelham Medical Group
Fifth Avenue
Pelham, NY (06-25)

Dear Mr. Slingerland:

In accordance with your request, we have reviewed the Phase I submission by the Pelham Medical Group for 116 Fifth Avenue, Pelham, NY. The submittal included the following:

- 1) Stabilization Plan, prepared by Myers Engineering, dated 2/16/07, Drawings S-1 through S-7
- 2) Booklet titled "Pelham Medical Group, Preliminary Phase I Plan, dated February 16, 2007"

The documents submitted on 2/16/07 outline items for a new retaining wall (Phase II) as well as some items for the removal of the rock in order to construct a new wall (Phase I).

We have reviewed the referenced submission for only what we deem are Phase I aspects of the documents submitted. Phase II related items will be addressed once a formal Phase II Plan has been submitted.

A. Stabilization Plan Drawings S-1 through S-7

- Comment as of November 30, 2006

Drawing S-2 – At station 0+00/property line, how is the transition going to occur with the adjacent property? Additional information and analysis is

required. The stability of the existing anchored rock blocks on the Lorde property to the south must be discussed and engineering calculations provided supporting the stability analysis. It appears that a vertical rock cut is proposed in this area perpendicular to the north/south 65° new rock slope.

- Comment as of February 26, 2007

This has not been adequately addressed. We recommend that the engineers Pelham Medical Group (PMG) and Lorde Properties review the end conditions to the north and to the south. A letter shall then be prepared by each engineer stating that they have reviewed the existing conditions and proposed plans and that in their professional opinion there should be no impact to the existing rock slope recently stabilized with anchors and wire mesh. We understand that the two areas may be difficult to evaluate, however, the Village of Pelham insists that both parties PMG and Lorde Properties, thoroughly study these two areas, prepare the necessary easement agreements, prepare a contingency plan if necessary, and with a reasonable degree of engineering certainty provide a professional engineers opinion that the proposed Phase I plan will not impact the integrity of the existing rock slope both north and south of the PMG proposed Phase I work areas.

Drawing S-2 – The discussion of the various stages (i.e. 1, 2 and 3) is not clear. Stage I shall be the removal of the upper 1/3 of rock as shown on S-4. On drawing S-2 the note implies Stage 1 to consist of rock scaling between 0+80 and 1+00. On drawing S-2 the notes for Stage 1 must be the same as for Stages 2 and 3 with respect to inspection and the evaluation of the stability of the exposed rock surface.

Drawing S-3 – Referring to the note “clearing and grubbing only unless hazardous conditions prevail”; has this area been inspected by PMG’s engineers? Is there an anticipation of a hazardous condition in this area? If not the note shall be modified to state that if any unstable conditions are encountered, the Village of Pelham must be notified immediately and a remedial plan shall be prepared and submitted to the Village of Pelham for review. Remedial work beyond the specific scope of work outlined on the Phase I drawings is not permitted unless prior authorization is given by the Village of Pelham. If an emergency situation arises, the Village shall be notified immediately and authorization to proceed beyond the limits of the Phase I plan can be given by the Village of Pelham on short notice.

Drawing S-4 (Original Comment 11/30/06) – The retaining wall section indicates that the rock slope will be vertical for a distance of about 2 feet above the new wall where the slope transitions to a 65° slope. This is inconsistent with the slope stability calculations provided by Myers Engineering.

2/26/07 – This transition area has not been addressed. The new concrete wall must extend to the same elevation as the toe of the new 65° rock slope.

The excavation limits of the Phase I rock cut must be defined. This shall be clearly delineated on the Phase I drawings and shall be as follows: beginning at the top of the slope (~ 8 feet from the property line to the east and on Lorde property to the south) the 65° rock slope to the near vertical rock cut behind the new concrete wall to the proposed retaining wall foundation trench.

Drawing S-6 – The notes shall be modified to only pertain to Phase I work. All references to concrete and rock dowels shall be removed.

B. Booklet (PMG Preliminary Phase I Plan, dated February 16, 2007)

- The plan is not preliminary it will be Phase I Stabilization Plan
- In Section 4, “All Rock Crushing, Inc.” page 6, please provide additional information regarding drilling (i.e. spacing and depth) along the final slope face in order to achieve a stable final slope face.

General Comments

The Phase I Plan submitted substantially addresses the items outline in Carlin-Simpson & Associates review letter dated 30 November 2006. The Phase I Plan, dated February 16, 2007 shall be revised as noted herein for final review and submission to the Village of Pelham Planning Board meeting on March 13, 2007.

Very truly yours,

CARLIN-SIMPSON & ASSOCIATES

Robert Simpson

ROBERT B. SIMPSON, P.E.

RBS:jw

After the approval of the Resolution, there was no further business.

Item #8 – Adjournment into Budget Work Session:

On the motion of Trustee Homan, seconded by Trustee Potocki, the Board voted to adjourn the public portion of the board meeting and go into Budget Work Session at 9:45 p.m. The motion passed unanimously by vote of five in favor, none opposed. Trustees Merrick and Mohan were absent.

Respectfully submitted,
Richard Slingerland, Administrator/Deputy Clerk