

April 19, 2009

## ***Developer's Demolition Spurs an Inquiry, and Anger, in Suffolk***

By ANGELA MACROPOULOS

SMITHTOWN

ON Main Street in Smithtown opposite town hall is what is left of a Nassau Suffolk Lumber and Supply Company store. Six storage buildings and utility sheds are partly demolished, with an adjacent century-old commercial block with only one law firm as a tenant.

On the demolition site's gate are a stop-work order from Smithtown's building department and a notice stating that the site's structures were unsafe for use and occupancy.

The timing of the aborted demolition has attracted special attention and an investigation by the Suffolk County district attorney. At issue is the property's tax status: When the town's 2009-10 tax assessment roll is published on May 1, the site's developer, North Fork Management and Maintenance L.L.C., may receive an 80 percent reduction in property taxes, because the buildings on the property, at 102 Main Street, are unusable.

Without necessary municipal building department permits except one for a single shed, the demolition appears to have taken place sometime between Feb. 26 and March 2. The critical date is March 1, which New York State's Office of Real Property Services calls the "taxable status date," or the date by which the condition and ownership of the property is assessed. The taxes on the property could go to \$10,375 from \$57,761, a Smithtown official said.

John Bongino, Smithtown's building director, said his office received a call on Feb. 26 that a crew was demolishing the buildings. A senior building inspector was sent to verify the complaint and issued a stop-work order the same day. But a building department inspection notice states that by March 2, all structures, other than a showroom, were torn down.

The next day, North Fork Management, which is owned by Salvatore DiCarlo of East Hampton, was cited with six Suffolk County violations for failure to obtain demolition site plan approval and work permits. North Fork has pleaded not guilty to the charges; the firm has also been charged with three more violations of town code over the safety of the sites.

Gregory Hild, Smithtown's assessor, said that, after he was contacted by Mr. DiCarlo regarding the taxable status date, he requested a legal opinion from the Office of Real

Property Services on the effect, if any, on the status of property demolished before March 1 without permits and in violation of a stop-work order.

The state agency ruled that the property had to be assessed on its condition on March 1 regardless of how the condition came about.

Development plans for 102 Main Street call for 94 residential apartments and 10 stores. There are also plans to connect the property to a sewage treatment plant at the former site of Smithtown General Hospital, another parcel owned by North Fork Management.

Frank Derubeis, Smithtown's planning director, said that a demolition site plan had been submitted by North Fork well before March 1, but the application was completed only on Feb. 25. According to Mr. Derubeis, once the plan was finished, Mr. DiCarlo and his lawyer, Vincent Trimarco Sr., pressed for a quick review.

But since the demolition would occur off of Main Street, which is also state Route 25A, notifications to both state and Suffolk County planning authorities were necessary, and the earliest that approval could be granted was 10 days later. The project did not in fact receive state approvals in time, Mr. Derubeis said.

Smithtown Councilwoman Patricia Biancaniello, a Democrat, has criticized the developer, saying she is angered by what she sees as a question of possible impropriety. Ms. Biancaniello, who is running for town supervisor in November, said that although she had decided to run before this incident, it was indicative of why she was running.

"The opinion is that people get away with this stuff," Ms. Biancaniello said. "People think, 'I go to work, I pay my taxes, and this guy is getting a break.' I think the assessor has discretion here."

Ms. Biancaniello said she contacted the state attorney general's office and the Suffolk County District Attorney's Office. At the end of March, subpoenas were issued by the district attorney's office for the town's building and planning department records of both 102 Main Street and the Smithtown General Hospital property.

Mr. Trimarco said his client's reputation was being unfairly smeared. "The guy is a good developer," he said. "He has taken two blighted places and he's going to develop them for the betterment of the town and for himself, of course, but that's the American way."

Patrick R. Vecchio, Smithtown's supervisor, said that he "cannot fathom what the Suffolk County district attorney is looking at." He said the act by North Fork Management to defy the stop-work order and remove the buildings before the taxable status date "is a business decision someone makes."