

Village of Pittsford  
**PLANNING AND ZONING BOARD OF APPEALS**  
Regular Meeting – October 28, 2013 at 7:00 PM

**PRESENT:**

Chairperson:	Remegia Mitchell
Members:	Meg Rubiano
	George Wallace
	Jill Crooker
	Joe Maxey
Attorney:	Jeff Turner
Building Inspector:	John Limbeck
Recording Secretary:	Linda Habeeb

**Chairperson Mitchell called the meeting to order at 7:05 P.M.**

**Michelle Yancey, Sutherland Street ~ Temporary use permit**

**Present:** Matthew Petrillo

**Discussion:** Chairperson Mitchell stated that the Village attorney, after reviewing the application, was concerned that this was not the proper subject for a Temporary Zoning Permit, since it was for a use that was occurring on municipal property, Sutherland Street, not private property. Unfortunately, the Building Inspector is out of town for personal reasons and could not review the issue. Upon his return, the Building inspector will review the matter to determine the appropriate avenue, if any, for this application.

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**Gene Cardamone, 73 South Main Street ~ Fence**

**Present:** Gene Cardamone, Homeowner

**The Secretary read the legal notice that was published in the October 17, 2013 edition of the Brighton Pittsford Post:** *“Please take notice that a public hearing will be held before the Village of Pittsford Planning & Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday, October 28, 2013 at 7:00 pm, to consider an application made Gene Cardamone for property located at 73 South Main Street for area variances for: (1) A fence in excess of three-feet in height, located closer to the street line than allowed in an R-1 Zoning District (seventy-feet) pursuant to Village Code § 98-1; and (2) A fence in excess of four-feet in height that is not made of wood, pursuant to Village Code § 210-83-17.”*

**SEQR:** Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5(c).

**Discussion:** Chairperson Mitchell stated that this is a revised application for the installation of an existing fence, which was installed without having the required approvals from the Zoning Board. The fence requires (1) an area variance for installation of a fence that is taller than the allowed 36” within the front setback of 70’ from the front property line, behind the front setback of the house; and (2) a Special Exception Use for installation of a non-wood fence.

Chairperson Mitchell explained that at the August PZBA meeting, Board members discussed the appropriateness of installing a non-wood fence, in excess of three feet in height, located closer to the street line than is allowed in the R-1 Zoning District. The portion of the application regarding the fence was left open for the Board to consult experts to determine the appropriateness of the fence. The Board received comments from The Landmark Society, Historic Pittsford, and the Village of Pittsford APRB, which comments were reviewed by Board members and submitted into the record. At the September 23<sup>rd</sup> Zoning Board meeting, the Board denied the applicant's proposal for an area variance.

Mr. Cardamone presented a proposal for modifications to the fence and pillars, based on the Board's concerns with the fence as installed. He stated that he is proposing removing the spires on the top of the fence, reducing the height of the pillars, and adding mortar to the pillars to bring the surface flush. He showed examples of other properties in the Village with similar fences and pillars. He further stated that the house is an imposing structure, and that the fence is appropriate for the house and property. He also discussed adjusting the grade on the north side of the property.

Chairperson Mitchell stated that Board members first needed to determine whether the revised application/proposal is factually distinguishable from the previous application. The general consensus among Board members was that the current application was factually distinguishable from the previous application. Chairperson Mitchell explained that the applicant has the right to request a full board vote, and that since member Wallace is not present, another meeting date would be established for this purpose if requested by the applicant.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to open the public hearing at this time.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. ***Motion carried.***

- ❖ Alyssa Plummer, 66 South Main Street, asked for an explanation as to what criteria are used determine whether this application is substantially different from the previous application.

Chairperson Mitchell stated that this is measured by determining whether the factual components of the current application are substantially different from the original application.

- ❖ Karen Freebern, 63 South Main Street, stated that she approves of the existing fence.
- ❖ Margaret Caraberis, 81 South Main Street, (1) asked whether the gate is included in the application, and (2) stated that the other fences in the Village that the applicant presented as examples were installed prior to the implementation of the current Village Code.
- ❖ William McBride, Village resident and APRB member, stated that the Architectural and Preservation Review Board determined that the fence is appropriate for the mass and scale of the house, citing elements that the APRB

considered including: the proximity of the house to the sidewalk, the change in elevation from the sidewalk to the structure, and the comparative height of the foundation on the residential structure. He further stated that a fence that meets the Village Code requirements, in this case, would not be architecturally compatible with the house.

- ❖ Jeff Morelle, 10 Lincoln Ave, stated that the applicant should be complimented for the modifications that he has made to the house. He further stated that a wood fence would not be appropriate for the house, and that the house is unique, and the installation of the fence would not set a precedent.
- ❖ Norma Fennel, a realtor with Mitchell Pierson, stated her approval of the fence, and commented that the gate contributes to the safety of the property.
- ❖ Elizabeth Dodge, 77 South Main Street, asked which proposal is being discussed: the area variance or the special exception use permit. Mr. Cardamone stated that both proposals are being discussed. She further commented that the modifications of the columns are a step in the right direction.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Crooker, to close the public hearing at this time.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, that the current application is substantially factually different from the previous application.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 28, 2013.

Chairperson Mitchell reviewed the criteria for granting an area variance. She stated that Board members are required to balance the adverse impact of the fence on the community versus the benefit of the fence to the property. It was noted that the house is located very close to the sidewalk and the street, and for safety reasons, this type of fence is a benefit to the homeowner and the community.

Member Rubiano questioned whether the gate, in a closed position, would prevent a car from pulling off the street to enter the driveway. Mr. Cardamone stated that the gate will probably be left open most of the time. Mr. MacDonald, project architect, stated that there is adequate space to pull a car off the public right-of-way onto the driveway apron if the gate is closed. Members discussed the impacts of requiring that the fence be installed at a lower elevation on the north side of the structure where the grade is lower and slopes gradually away from the house toward the north.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve an area variance for the installed fence, as submitted, with the removal of the spires, for a reduction of approximately 5-5½ inches in height; the reduction of the pillars, for a reduction of 12 inches in height; and with the installed height of the portion of the fence on the north side of the property to be determined by the APRB.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 28, 2013.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to grant a special exception use permit for the installed metal fence, which is a material other than wood.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 28, 2013.

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**Seth Clark, 10 Schoen Place ~ Special Permit**  
**Present: Seth Clark**

**Discussion:** The applicants stated that they are seeking a special permit from the Board of Trustees to open a microbrewery taproom to be located at 10 Schoen Place. The microbrewery will offer locally brewed craft beer and growlers to be purchased for personal consumption. They emphasized that the operation will not be a bar; it will be similar to a winery where customers can sample a number of different beers. They stated that there will be no brewing of beer onsite. They also plan on having some limited retail items for sale, such as tee shirts and bumper stickers. They stated that customers will utilize the public parking in the area of the business. They also noted that the business will not be open during the busiest times for other merchants in this area of the canal waterfront.

The proposed hours of operation are:

- ❖ Tuesday – Thursday: 4:00 pm to 9:00 pm
- ❖ Friday & Saturday: 12:00 pm to 11 pm
- ❖ Sunday: 12:00 pm to 7:00 pm

The proposal is for 30-35 seats inside the brewery. Board members questioned the applicants as to their plans for parking, removal of trash, music, and food service and preparation. They stated that they will be utilizing the existing receptacle behind the Coal Tower for trash. They also stated that the business will not generate a large amount of trash. The plan is for limited food service and there would not be cooking on site. The applicants indicated that they would seek additional information about parking, lighting of the parking area, trash collection frequency, and a site plan for the entire area from the property owner/manager at a meeting scheduled for later in the week. The Board also asked about types of delivery trucks and frequency of deliveries. Mr. Clark stated that the trucks will be small, and the deliveries will be approximately twice a month.

Chairperson Mitchell stated that she will send a memorandum to the Board of Trustees with the PZBA's recommendations regarding this proposal.

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**Charles Corby, 44 North Main Street ~ Site Plan**  
**Present: Charles Corby**

**The Secretary read the legal notice that was published in the October 17, 2013 edition of the Brighton Pittsford Post:** *“Please take notice that a public hearing will be held before the Village of Pittsford Planning Board at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday, October 28, 2013 at 7:00 pm to consider an application for property known as Pittsford Farms Dairy, owned by Charles Corby, and located at 44 North Main Street, for minor site plan approval, pursuant to Village Code § 210-83B(12).”*

**SEQR:** Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5(c).

**Discussion:** Mr. Corby presented a proposed site plan for grading and paving the rear parking lot at the Pittsford Dairy, located at 44 North Main Street. The site currently has crushed stone in this area, which is used for employee parking.

Chairperson Mitchell stated a concern that the retention pond is not functioning properly and that it should dry out between rain incidents. Mr. Corby stated that the pond has always held water and that it has fish living in it. He submitted a document from Robert Bringley, of Marathon Engineering, stating that he has reviewed the storm drainage calculations and concluded that the original design of the stormwater facility will handle the proposed paving. Chairperson Mitchell also stated that there are no pavement markings and that the dumpster is not yet enclosed.

Member Crooker stated that the site is too dark to be safe for customers. Mr. Corby explained that electrical conduits have been installed and that the light fixtures will be installed as soon as the paving is complete. He also stated that he had decided to eliminate three light fixtures in the rear of the building, where employees park, because there is adequate light spill from the neighboring property.

Chairperson Mitchell explained to Mr. Corby that he is responsible for submitting a final as-built plan to the Village. This plan must show the revisions made during construction including, but not limited to, pavement markings, handicapped parking spaces, location of dumpster, and the bulk milk tank. She further indicated that elimination of three approved light fixtures to the rear of the new structure would require further review and stated that she would request a site visit by the Village Building Inspector.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to open the public hearing at this time.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to close the public hearing at this time, as there was no one wishing to speak for or against this application.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to approve the site plan for paving the rear parking area, with the conditions that (1) the Village Engineer review and approve the retention pond’s ability to handle the stormwater, and (2) the applicant submit a revised lighting plan that shows any changes to the lighting.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 28, 2013.

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**John Schultes, 41 North Main Street - Site plan**

**Present:** John Schultes

**Discussion:** This is a continuation of an open public hearing for proposed renovations of the landscaping between the Del Monte Hotel and the canal path. The proposal is to remove the hedge and install new landscaping, three benches, four pillars, and low-voltage ground lighting that will be located in the planting beds. He stated that they are also proposing removing the existing fence.

The applicant stated that the permit from the Canal Corporation is ready to issued. Mr. Schultes presented a revised site plan that includes clearly marked boundaries and dimensions, the proposed lighting, adjoining crosswalks, and the varieties and sizes of the landscaping at maturity. He stated that there is a landscape maintenance plan for the entire area. Presenting a photometric plan, the applicant stated that the proposed lighting will be low-wattage ground lighting with up lighting on the pillars.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to open the public hearing at this time.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to close the public hearing at this time, as there was no one wishing to speak for or against this application.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.**

**Motion:** Member Rubiano made a motion, seconded by Chairperson Mitchell, to approve the site plan for renovation of the landscaping and lighting, with the lights not to exceed 20 watts of downcast lighting along the path and up lighting on the pillars as presented.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 28, 2013.

**Member Items:**

**Liaison Report:**

- ❖ Mr. Galli reported that there is a public hearing scheduled for the Board of Trustees to revise the R-5 Code.

**Adjournment:** There being no further business, Chairperson Mitchell adjourned the meeting at 10:00 pm.

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Linda Habeeb, Recording Secretary

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