

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – February 24, 2014 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 7:00 P.M.

Information only: John Stadt, 5 South Main Street ~ Special Use Permit

Discussion: The applicant is seeking a special use permit for the addition of seating to the Flour City Pasta Shop, located at 5 South Main Street, for service of prepared food, in addition to the current take-out service. He stated that he is proposing adding 12-16 chairs, and he would serve mainly luncheon items, such as soup, sandwiches, coffee, and cold drinks to be eaten on the premises.

Board members questioned Mr. Stadt about the proposed method of trash management. He stated that the service in the restaurant would utilize china and silverware, so it would generate very little trash. Chairperson Mitchell stated that the business owner would be responsible for monitoring trash receptacles in the vicinity of the restaurant. Mr. Stadt responded that he currently helps to maintain the sidewalk area near his business by removing debris and shoveling snow and that he will continue to do so.

Board members also asked about the number of additional staff required for this service. Mr. Stadt stated that he currently employs three full-time employees and one part-time employee, in addition to himself, and that he might hire one additional person for this use. He provided the intended hours of operation, indicating that this business closes at 6pm and that the primary serving hours will be 11am -2pm except on Sundays when he intends to serve brunch foods from 10 am until 2pm.

Chairperson Mitchell stated that the Board will prepare their recommendations regarding this proposal and forward them to the Board of Trustees.

Charles Clottin, 10 North Main Street ~ Temporary Use Permit

Present: Charles Clottin, Harladay Hots, Inc.

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5(c) #15.

The Secretary read the legal notice that was published in the February 13, 2014 edition of the Brighton Pittsford Post: *"Please take notice that a public hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday, February 24, 2014 at 7:00 pm, to consider an application made by Charles Clottin, of Harladay Inc., for a temporary zoning permit to allow the seasonal operation of a vending cart at 10 North Main Street, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford."*

Discussion: Mr. Clottin stated that he is seeking renewal of the temporary zoning permit to operate a vending cart in the lot located at 10 North Main Street. He stated that the Town of Pittsford owns the lot, and he has received permission from them to operate his business on the lot, contingent on his being granted a temporary use permit from the Village. He is proposing operating the vending cart business on Monday through Saturday, from 10 am to 3 pm, from May through November 2013. He also requested permission to operate the vending cart during special events, such as the Pittsford Regatta and the LPGA. Board members suggested that he notify the Village a week in advance of the event to request approval to operate the cart during an event. He provided documentation indicating that the business is fully insured and licensed with the Monroe County Health Department. He stated that he operated his business successfully last year, with a minimum of problems.

The Building Inspector reported that there have been no problems or concerns with this applicant's business in the past few years. Chairperson Mitchell stated that there was a concern with the landscaping in the area having been damaged by the applicant's cart. Mr. Clottin stated that the Town will be addressing the landscaping problem in the area.

Public Hearing Opened: Chairperson Mitchell opened the public hearing at this time.

Public Hearing Closed: Chairperson Mitchell closed the public hearing, as there was no one wishing to speak for or against this application.

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the application for a temporary use permit, as submitted, from May 1, 2014 to November 30, 2014, with the following conditions:

1. The applicant will remove all trash that is generated by this business.
2. The applicant will position the vending cart far enough back from the road to prevent cars from stopping in the road and causing traffic problems.
3. The Village reserves the right to revoke the permit if the business creates traffic hazards or unsafe conditions for pedestrians, or if there are other issues or repeat concerns that are not addressed by the applicant.
4. The Fire Marshal will meet with the applicant to inspect the vending cart to insure that it meets the Fire Code regulations.
5. The applicant has received permission from the Town of Pittsford to operate the vending cart in the proposed location.
6. The applicant will work with the Town of Pittsford to resolve ground maintenance issues and restore the site prior to the start of business in the spring.
7. The applicant will notify the Village a week in advance of any special event to request approval to operate the cart during the event, which will include 30 minutes prior to the event and 30 minutes after the event for setup and cleanup of the area.

Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes; Wallace - yes. Motion carried.
The decision was filed in the Office of the Village Clerk on February 24, 2014.

Pittsford Hearing & Balance Center, 56 North Main Street ~ Area variances

Present: Dr. John Salisbury; Robert Shaddock, Attorney

The Secretary read the legal notice that was published in the February 13, 2014 edition of the Brighton Pittsford Post: *“Please take notice that a public hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday, February 24, 2014 at 7:00 pm, to consider an application made by Pittsford Hearing and Balance Center, located at 56 North Main Street, for an area variance for signage, pursuant to Chapter 168.7 of the Code of the Village of Pittsford.”*

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

Discussion: The applicant stated that he is proposing retaining the existing three signs at his business, which is located at 56 North Main Street. It was noted that the current signage has existed for five years. Mr. Limbeck stated that Village Code allows only one sign for this business. The applicant stated that since the majority of the patients that utilize the business are elderly, with disabilities, the existing signage is necessary for maximum visibility, so that his patients can locate the business.

Board members noted that the APRB approved only one sign for this business. The applicant stated that he wants to hang signs which identify the names of the individual audiologists who are working on a given day. Board members suggested that these additional name signs can be mounted within the vestibule of the business entrance rather than outside of the building. Chairperson Mitchell stated that it would set a precedent to allow multiple signs for one business.

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to open the public hearing at this time, and the following person spoke:

Jack Cargill, Boughton Avenue, stated that while he understands the issue of setting a precedent, he also noted that the need for visibility of this business for his patients was also a valid point.

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

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

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

Motion: Member Maxey made a motion, seconded by Member Crooker, to deny the application for area variances for additional signage.

Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes; Wallace - yes. Motion carried.
The decision was filed in the Office of the Village Clerk on February 24, 2014.

Findings of Fact:

1. The Zoning Board of Appeals must review the requested variance from the perspective of the needs of the property itself, and not the particular needs of an occupant of the property.
2. There is only one entrance to the business and one drive aisle into the business complex.
3. Both the building entrance and the sign which has been approved for the business face both the street and the driveway into the complex. Therefore, the approved sign is visible from both Main Street and the complex entrance.
4. Allowing three signs for a single business with a single entrance where one sign is permitted, is a substantial variance.
5. Approval of additional signage could set a precedent for future applications.
6. The benefit to the applicant can be achieved by another means. Individual service providers' name signs can be mounted on additional signage within the entrance of the building.
7. The fact that the unpermitted signs have been on the building for several years is not relevant to this application for an area variance or to the issue of whether or not these create an undesirable change in the neighborhood or create an adverse impact on the physical or environmental conditions in the neighborhood.

Appeal of Building Inspector/Code Enforcement Officer's Determination that the Final Site Plan Submission for Westport Crossing Was Complete

Present: Appellants: Friends of Pittsford Village, Justin Vlietstra and Michael Reynolds; Building Inspector/Code Enforcement Officer: John Limbeck; Applicants: Chris DiMarzo, Mark IV; Peter Vars, BMI; John Mancuso, Harris Beach

The Secretary read the legal notice that was published in the February 13, 2014 edition of the Brighton Pittsford Post: *"Please take notice that a public hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday February 24, 2014 at 7 :00 pm, to consider in accordance with NYS Village Law § 7-712a(4), an appeal filed by Justin Vlietstra and Michael Reynolds of the Building Inspector/Code Enforcement Officer's determination that the final site plan submission for Westport Crossing, located at 75 Monroe Avenue in the Village of Pittsford, was complete."*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5(c)(20).

Discussion: Chairperson Mitchell stated that the process for this hearing will be that the Board will hear from the presenters in a specific order, with time limits for each presentation. Mr. Turner explained that this is a quasi-judicial proceeding, in which the Board sits as a court.

Chairperson Mitchell stated that Board members have thoroughly reviewed the submitted documents from all of the parties, and each of the three parties, the appellant, the Building

Inspector, and the applicants, will have an opportunity to present only highlights or new issues to the Board. They will also each be given an opportunity to respond to the presentations, and then a final rebuttal.

Appellants:

Mr. Vlietstra began by stating that it is his understanding that the Zoning Board effectively becomes the Building Inspector, and that the appeal voids his decision, and the Zoning Board re-conducts his review. Mr. Turner stated that this is incorrect; the appeal does not void the Building Inspector's decision. He explained that the Board has three options, they can approve, deny, or issue a new decision. Then the public hearing will be opened for the public to speak only on items specifically relating to the appeal.

Mr. Vlietstra thanked the Board for the opportunity to make his presentation. He stated that the Village of Pittsford Code Enforcement Officer declared the final site plan submission complete on October 21, 2013. He presented documentation supporting the appeal of the decision to the Village of Pittsford Zoning Board of Appeals.

- ✓ **Required items are missing from the application for Final Site Plans:** Building height; location of hazardous materials; open space locations and dimensions; list of required variances; name of landscape architect; 70 parking spaces for the restaurant; evidence that the proposal meets the definition of multiple-family dwelling.

- ✓ **Preliminary Site Plan Approval has not been granted.** Prior to applying for Final Site Plan approval, one must receive Preliminary Site Plan approval. On July 10, 2013, Conditional Preliminary Site Plan approval was granted with five conditions:
 1. Final site plan being reviewed for conformity with the R-5 Code;
 2. Review of the plan by the Village Engineer;
 3. Review of the plan by other involved agencies;
 4. Review of the plan for Fire Code and traffic engineering; and
 5. Proper remediation of drainage from the railroad side of the property.

- ✓ **Conditions for Final Site Plan application have not been met.** Final site plan application cannot be made until all state and county permits have been granted per Village Code §210-85(A).

- ✓ **Concerns of Appellants.** The appellants are concerned that the Westport Crossing development could produce inappropriate development and loss of oversight over remediation, which could cause harm to the community.

- ✓ **Requested Action:** This appeal requests the Village of Pittsford Zoning Board of Appeals to declare the application for Final Site Plan for Westport Crossing to be incomplete. Further, no application for Final Site Plan should be reviewed by the Planning Board or acted on until (1) All required items in the Village Code §210-84.A.3 are on the application; (2) All five conditions placed on preliminary site plan approvals are met; and (3) All state and county permits required for construction are issued.

Code Enforcement Officer:

Mr. Limbeck presented the following response to the appeal:

✓ **Qualifications of John Limbeck:**

- 1) B.S., with honors, from R.I.T. in Construction Management with minor in Environmental Sciences
- 2) Over 120 continuing legal education credits in construction contract law
- 3) Portfolio of industrial and heavy commercial projects in excess of \$1B.
- 4) Service on seven municipal boards

The following rebuttals respond to the “arguments and supporting evidence for the claims of Friends of Pittsford Village (FOPV), Michael Reynolds and Justin Vlietstra, that the application for 75 Monroe Avenue Final Site Plans is incomplete.”

✓ **Review capabilities of the dedicated Code Enforcement Official (CEO):**

Mr. Limbeck stated that the features of a site plan are limited to site situations; elevation details may be presented to enhance an understanding of a particular feature of the project site but are not required. Examples would include curb details, signage details, grading/slope details, infrastructure details, etc.

He further stated that there is a difference between *discretionary* and *non-discretionary* reviews. The CEO is required to make a determination as to whether particular features exist on presented documents so that the features can be reviewed, enhanced, or deleted from the project. This is a *non-discretionary* review. The Village Board of Trustees (BOT), the Village Planning and Zoning Board of Appeals (PZBA), and the Village Architectural Preservation and Review Board (APRB) have *discretionary* review capabilities and their approvals can be conditioned upon changes that they require an applicant to make.

✓ **Required items are missing from the application for Final Site Plans:**

1. Building height: Individual building heights are not relevant in a non-discretionary review of a site plan. The building height limitations are clearly defined for the project and fall under the direct purview of the APRB and the Board of Trustees. The CEO completed his required review on this element by determining that footprints were located in the positions approved by the Planning Board in the preliminary site plan.
2. Location of hazardous materials: Pool chemicals will be the primary hazardous material on the site. New York State Building Code dictates how much of any one substance can be stored, as well as where and how.
3. Open space locations and dimensions: These are shown on the final site plan submission; compliance to Village Code requirements will be the decision of the PZBA, with the assistance of the Village Engineer.
4. List of required variances: Since final site plans are typically fluid. Variances develop during Planning Board site plan review.
5. Name of the landscape architect: The CEO had evidence that landscaping was being provided. The Planning Board will determine compliance and/or enhance the landscaping plan.
6. Seventy parking spaces for the restaurant: The applicant demonstrated that there was parking for the restaurant. A function of the PZBA is to

determine if the proposed parking meets the Village Code, or if a variance is required.

7. The Board of Trustees made a determination that the project meets the definition of multiple-family dwelling when they adopted the resolution to allow the project.

✓ Preliminary Site Plan Approval has not been granted:

Mr. Limbeck stated that by “conditioning” a preliminary site plan approval, the applicant is directed to incorporate particular features or conditions into the final site plan submission. Items 1-5 of this argument were satisfactorily incorporated into the project prior to the determination of completeness by the CEO.

✓ Conditions for Final Site Plan application have not been met:

The dedicated CEO does not issue permits for the New York State and Monroe County Agencies. The applicant has incorporated features into the final site plan that have been reviewed by these external agencies and for which comments have been, and continue to be, received as part of the process. The CEO contacted each agency that would issue permits for this project to verify that Village PZBA approval was not a consideration for that agency’s permit approval, prior to deeming the submission complete. No building permits will be issued until the agency permits have been issued.

✓ Concerns of appellants:

Mr. Limbeck stated that the Village boards and the CEO have varied roles. The final site plan submission is a product of the Resolutions adoption by the Board of Trustees and the preliminary site plan conditioned by the PZBA. The PZBA and APRB will continue to work with the applicant to define conformance to Village Code requirements, and the dedicated CEO will verify conformance to NYS Building Codes.

The applicant has agreed to direct the existing drainage through their property to address the drainage problem at the CSX right-of-way. They cannot install a new catch basin on CSX property.

Mr. Limbeck further stated that the NYSDEC will continue to monitor the construction phases of the project and they do have the authority to require the applicant to provide any additionally required remediation.

In conclusion, Mr. Limbeck stated that he made the determination that the Final Site Plan submission provided for Westport Crossing was complete at the conclusion of his review and suitable to be forwarded to the Village PZBA for their review process.

Applicants:

Mr. Mancuso began by thanking the Board for allowing him to make his presentation. He stated that there is a narrow issue before the Board, and that most of the FOPV arguments involve Planning Board site plan review and are not relevant. Any arguments raised in connection with the Preliminary Site Plan approval should, therefore, be disregarded by the ZBA. Regarding the applicants’ remaining arguments, Pittsford Canalside submits that the

appeal should be denied in its entirety based on the following: (1) the KCI correspondence is not an action appealable to the ZBA; (2) the appellants are not “aggrieved” and are not permitted to bring the appeal; (3) Pittsford Canalside has met the conditions of its preliminary site plan approval and section 210-85 of the Village of Pittsford Zoning Ordinance; (4) the Planning Board was authorized to approve the restaurant in its present location pursuant to Resolution No. 20 of 2012 adopted by the Board of Trustees; (5) The Planning Board was authorized to approve the location of the restaurant; and (6) The appellants’ February 14, 2014 submission misstates the facts.

Appellants:

Mr. Vlietstra stated that this response from the applicants makes numerous points of argument that are completely irrelevant to the proceedings before the Zoning Board of Appeals. Many of their arguments address Preliminary Site Plans that are not being challenged in this appeal.

- ✓ Preliminary Site Plan approval has not been appealed to the ZBA. The Code Enforcement Officer’s decision that 75 Monroe Final Site Plan application is complete is the sole appeal being considered by the ZBA.
- ✓ The KCI correspondence is not part of the current appeal being considered by the ZBA.
- ✓ New York State Supreme Court has ruled that Friends of Pittsford Village has standing and is legally allowed to file the appeal.
- ✓ New York State law, not Village Code, requires that conditions of Preliminary Site Plan be met before final site plan can be applied for.
- ✓ FOPV did not present any arguments about the location of the restaurant in their February 14, 2014 documentation of arguments for the Appeal.
- ✓ It is clear that the environmental cleanup is in its early phases. Numerous reports and approvals are needed.

Mr. Vlietstra stated that the site plan has not met DEC requirements, as they are still in the process of removing contaminants, and the area is not suitable for habitation. Agency reviews should be included in the site plan; therefore, the site plan is not complete. Mr. Vlietstra concluded by stating that the recommended course of action is to reopen Preliminary Site Plan review, and, after receiving all state and county permits, proceed to final site plan review.

Member Wallace questioned whether the nature of the Building Inspector’s decision was appealable. Mr. Vlietstra stated that the Building Inspector’s granting of a permit to allow the Board to review the final site plan is appealable.

Code Enforcement Officer:

Mr. Limbeck stated that he has granted no permits to Mark IV to date. He stated that he certified a final site plan submission as complete. He also stated that he did not waive any requirements, but that he referred certain aspects of the site plan to the appropriate Boards. He further noted that the Board of Trustees dictated the heights of the buildings, and he has no authority to override a decision of the Board of Trustees. As to the granting of state approvals, he provided a list of agencies that would need to grant permits, and none of the

agencies require Planning Board approval prior to granting the permits. He concluded by stating that he will issue the building permits when all of the elements are completed.

Mark IV

Mr. Mancuso stated that this is not the proper venue for discussion of the substantive issue of final site plan approval. He said that the issue is certification, which is not appealable. He also stated that the relocation of the restaurant was referred to by the applicants only because FOPV referred to the restaurant in their submission.

Mr. Vars began by presenting his credentials:

He stated that he has been a practicing engineer for almost 29 years, and his firm has been in business for 25 years. They have completed over a 1000 site plan and subdivisions in the greater Rochester area and understand and have a great amount of experience in the site plan review process. He stated that he is a faculty member for the Monroe County Department of Planning's Land Use and Decision Making Training Program, where he teaches classes on site plan review, and is also a former director of the NY Planning Federation. He further stated that he has given numerous presentations on site plan review and SEQRA at conferences and training sessions for the NY Planning Federation, the NY Association of Towns, the Tug Hill Commission, and the Genesee Finger Lakes Regional Planning Council. He concluded by stating that BME Associates is licensed by New York State to practice landscape architecture.

Mr. Vars stated that the fact that there is a need to revise plans during the review process does not lead to the conclusion that the original application was incomplete. He further noted that state and county agencies do not review applications until they are complete. It is typical to receive comments from them to address as part of the ongoing process. He also stated that he wanted to verify that Mr. Limbeck made the applicants aware of his process in contacting the various agencies.

Mr. Vars stated that the NYS Canal Corporation, the New York State Department of Transportation, and the Monroe County Health Department all require approval of the project stormwater pollution prevention plan. That plan requires a signature of the Village Engineer, who has stated that that will be done once final site plan approval has been granted.

Mr. DiMarzo stated that he appreciates the Board taking the time to hear this appeal. He also stated that Mr. Limbeck did an extraordinary job in assuring that all required items were included on the plans.

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; Wallace - yes. **Motion carried.**

The following people spoke:

- **Alyssa Plummer, 66 South Main Street**, questioned which capacity Mr. Limbeck was acting in: KCI or Village of Pittsford.

Mr. Limbeck explained that he is employed by KCI Engineering of New York, P.C. as the dedicated Code Enforcement Official (CEO) for the Westport Crossing project at 75 Monroe Avenue. He stated that when he was hired in December of 2012, the Village was actively seeking proposals from engineering firms to provide this CEO service for this project, as they were not staffed to handle a project of this magnitude. He was told that it was outside of his normal job duties and responsibilities. Once hired, situations related to the Project arose that needed to be dealt with, and without the dedicated CEO being in place, he was forced to address them. Since his firm has the expertise to provide this service and since he was already engaged with the process, KCI was asked to submit a proposal to use him as the dedicated CEO. The potential for conflict was reviewed with a specialist from Osborn and Reed, and NYCOM also stated that this was permissible. The only functions that he performs as the Village CEO for this project involve “policing” activities, such as the actual issuance of a building permit or certificate of compliance or occupancy. All other activities are performed as a KCI employee. This is why KCI letterhead is utilized for his reports.

Ms. Plummer also stated that since the Board opened the public hearing on the final site plan prior to determination of the FOPV appeal, it gives the impression that the Board has a preconceived outcome of the appeal.

- **Elizabeth Dodge, South Main Street**, stated that she supports the 75 Monroe Avenue development. She also stated that Mr. Limbeck has engaged in a pattern of failure to follow the appropriate processes, which puts the Village at risk.

Chairperson Mitchell stated that the Board is only hearing comments from the public that deal with the relevant issue of the appeal.

- **Justin Vlietstra, Boughton Avenue**, stated that he has a serious concern that final site plan is being prematurely reviewed. He stated that the Planning Board should be the last board to review the project, after all agency approvals have been granted.

Mr. Limbeck stated that the Board of Trustees does not issue road permits or water permits. Each agency that issues these permits has informed the Village as to what is required to issue the permits. He further reiterated that he will not issue any building permits until all appropriate agencies have issued their permits.

Mr. Vars stated that it is standard procedure for the Planning Board to grant Final Site Plan approval contingent on receiving approvals and permits from reviewing agencies.

Mr. Mancuso stated that regarding the issue of the Planning Board’s proceeding with site plan review while the outcome of the appeal is still pending, the issues involving the stay under Village Law were submitted and addressed by Mr. Turner, who confirmed, based on case law, that no stay could be implemented because it was an appeal by a third party. He further noted that this issue was addressed prior to the hearing. He concluded by requesting that the Board close the public hearing for the appeal.

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

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

Chairperson Mitchell stated that the Board will not make a determination on final site plan until a determination has been made on the appeal. She further stated that the Board will deliberate on the appeal with counsel's guidance. Mr. Pavia stated that the applicant is prepared to discuss final site plan issues at this meeting. Chairperson Mitchell stated that the Board will continue reviewing the final site plan at this meeting.

Mr. Vlietstra requested to submit additional responses to the developer's and Mr. Limbeck's comments. Chairperson Mitchell asked Mr. Vleistra to submit the additional documents within the next week and he confirmed that he would meet that timeline.

Chairperson Mitchell stated that as to the timeframe going forward, Board members will meet with counsel to address legal issues of the appeal. It is possible that the Board could make a determination at the next regular PZBA meeting, to be held on March 24th.

PLANNING BOARD

Pittsford Canalside Properties, LLC, 75 Monroe Avenue ~ Final Site Plan

Present: Chris DiMarzo, Mark IV; Peter Vars, BME Engineering; Frank Pavia, Attorney

Discussion: Mr. Vars stated that in response to Mr. Limbeck's letter, the applicants have submitted fully updated, complete sets of drawings that address all comments and addendas to date, as follows:

1. Plan modifications that show the sidewalk along the entry road that maintains 6 feet of clearance off the curb.
2. A draft estimate of the cost of the Project's landscaping and art work expenditures.
3. The graphic illustration of the required open space per resident unit that will be approved by the Village Engineer.
4. School bus pick-up/drop-off area located on the drawings. Finalization will depend on the decision of the Pittsford Central School District.
5. Verification that a front entrance to the restaurant will be maintained on Monroe Avenue. The crosswalk at Monroe Avenue will require a variance.
6. Verification that three benches are shown on the Monroe Avenue sidewalk.
7. The landscaping along the edge of the parking area will provide screening of the restaurant parking area.
8. Limits to granite curbing.
9. The sidewalk at the restaurant entrance will be relocated to provide a 6-foot tree lawn.
10. The signage for fire lane is shown on the plans.

Chairperson Mitchell stated that the Planning Consultant, John Steinmetz, questioned a particular area of the site plan. Mr. Vars stated that the area in question is a garbage tote area for the restaurant. He noted that the area will be fully screened, and will be reviewed by the APRB. Chairperson Mitchell questioned the applicants as to why the garbage tote area had been relocated and why there is a bench located on the median. Mr. Vars explained

that the garbage area was located at a distance from the building because the restaurant intends to provide outdoor seating for patrons and garbage should not be near this service area. Regarding the bench location, he stated that the median is an area of respite, and the bench is intended to enhance the area and provide a sense of safety. He said that the area is 28 feet wide. Chairperson Mitchell asked whether the foundation plantings at the restaurant were included in the total number of plantings. Mr. Vars stated that they were included in the computation of the total.

Chairperson Mitchell asked the reason that some of the sidewalks are 6-feet wide. Mr. Vars explained that for sidewalks with interval curbs, it is typical to have sidewalks measuring 6 feet in width. Chairperson Mitchell questioned the applicants as to the location of the parking for the residential units located in the restaurant. Mr. Vars stated that the residents of the residential units in the restaurant will park in the parking lot and in the adjacent area. He further noted that as a condition of the special use permit, the Trustees established a maximum limit of parking spaces.

Chairperson Mitchell questioned the applicants as to the location of the property line along the canal, and the landscaping along that area. Mr. Vars stated that there is a tree canopy and plantings within the Canal right of way. The plantings are chokeberry bushes, which Pittsford Canalside Property will maintain. Chairperson Mitchell asked about the height of the proposed fence on the railroad side of the property. Mr. Vars stated that the fence is 6 feet in height, but that due to changes in the grading, the height of the fence off the ground will vary. Chairperson Mitchell asked the applicants about the screening at the railroad tracks. Mr. Vars stated that the trees and plantings will provide a dense buffer with the mature height of the shrubs at 6 feet.

Chairperson Mitchell questioned the applicants about where the proposed fence will end. Mr. Vars stated that the fence will end at the state right-of-way line, which is approximately 60 feet from the curb. Board member Maxey expressed concern with the one-lane exit onto Monroe Avenue. Mr. Vars stated that this was created as the result of an SRF traffic study. Also, wider access was required for fire vehicle access. Chairperson Mitchell asked about the photometrics, and whether there is excessive cumulative light at any point in the development. Mr. Vars stated that within the property the measurement of the light is one-half footcandle. He also stated that the lightpoles are 12 feet in height, so the residential units will be above the lightpoles, and the walkways will be lit with bollard lights. He further noted that they followed the RGE criteria for lighting of residential areas.

Chairperson Mitchell stated that the public hearing will be continued at this time, and the following people spoke:

- **Michael Reynolds, Church Street**, stated that the site is contaminated, and there is an existing drainage problems that the developers are unable to fix.
- **Alyssa Plummer, South Main Street**, questioned whether the precast concrete retaining wall has always been on the plan. She also stated that the entire Erie Canal system is currently being designated in the National Register of Historic Places, and this retaining wall alters the historic view. She stated that there are continual changes to the plans, so the public hearing should remain open so that the public can keep informed about the changes to the project.

- ▶ **Justin Vlietstra:** Thanked the applicants for submitting full sets of plans and drawings. He stated his concern that the public is not receiving all of the correspondence between the developers and the Boards. He further questioned whether the public will be able to attend the meetings with the landscape architect.

Chairperson Mitchell stated that the architect has provided sufficient documentation so that there will be no need for a meeting.

Mr. Vlietstra addressed the recommendation from the State Historic Preservation Office (SHPO) to preserve the vegetative buffer on the canal bank. He further questions how the current plan remedies the clear-cutting, meets the request of SHPO, and restores the vegetative buffer along the canal, thus preserving the historic integrity of a cultural landscape of national significance.

Mr. Limbeck stated that he has spoken with the Interim Director of Transportation for the Pittsford School District, who indicated that their policy is that school buses do not drive into private property, but also stated concern with dropping off children along Monroe Avenue. He also noted that the Canal Corporation is installing a retaining wall in the Canal in the Village. The overall plan is for installation of 110 feet of retaining wall and for the repaving of the walkway.

Mr. Vars noted that the installation of a wall on canal property is subject to Canal Corporation approval and that the precast wall was shown on the approved preliminary site plan.

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

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

Mr. Pavia requested that the Board vote on final site plan approval at this meeting. Chairperson Mitchell stated that it is her opinion that it would be a mistake to consider making a determination on the final site plan until the variances and determination of the appeal have been completed.

Mr. Pavia stated that there is no legal reason not to vote on the final site plan, since the approval can be conditioned on completion of these issues.

Member Wallace suggested that the Board members have further discussion about voting on the final site plan. Member Rubiano stated that she agrees that it would be premature to vote on the final site plan with unresolved issues remaining. Member Maxey stated that other issues may arise, and the Board has a responsibility to the public to determine the appeal prior to voting on the final site plan. Mr. Wallace stated that if the final site plan is approved, PPC would not be able to move forward without the Board granting the variances.

Mr. DiMarzo stated that the required variances are not difficult issues, and that if the Board would grant site plan approval at this meeting, it would give the developers an opportunity

to move forward. Chairperson Mitchell stated that there are two open issues: the variances and the undetermined appeal hearing.

Mr. Vars asked the Board if, other than these two issues, there are any other site plan issues that will need to be resolved. Chairperson Mitchell stated that other issues could arise. It was noted that Pittsford Canalside Properties considers that, as relates to the site plan, their work is complete.

Minutes:

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the 1/15/14 and 1/27/14 minutes, as revised.

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

Adjournment: There being no further business, Chairperson Mitchell adjourned the meeting at 10:30 pm.