

**VILLAGE OF PITTSFORD  
PLANNING AND ZONING BOARD OF APPEALS  
Regular Meeting – March 16, 2015 at 7:00 PM**

**PRESENT:**

Chairperson: Remegia Mitchell  
Members: Meg Rubiano  
              Jill Crooker  
              Joe Maxey

Village Eng. Scott Harter  
Attorney: Jeff Turner  
Building Insp.: John Limbeck  
Recording Sec: Linda Habeeb

Chairperson Mitchell called the meeting to order at 7:10 P.M.

**ZONING BOARD**

**Roger & Elizabeth Powers – Appeal of Building Inspector’s decision**

Chairperson Mitchell stated that the applicants have requested that this hearing be adjourned until the April 20, 2015 PZBA meeting.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to adjourn the hearing for the appeal of the Building Inspector’s decision until the April 20, 2015 PZBA meeting.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes. *Motion carried.* The decision was filed in the Office of the Village Clerk on March 16, 2015.

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**10 North Main Street, Friends of Pittsford Village ~ Temporary Use Permit**

**Present:** Justin and Amy Vlietstra

**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 March 5, 2015 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 March 16, 2015 at 7:00 pm, to consider an application made by Friends of Pittsford Village for a temporary zoning permit to

*allow the seasonal operation of a Farmer's Market on Thursday evenings at 10 North Main Street, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford."*

**Discussion:** The applicants stated that they are seeking a temporary zoning permit to operate a community Farmer's Market on Thursday evenings between June and October on the western edge of the Pittsford Library lot and lawn area, which is owned by the Town of Pittsford. They stated that the proposal is for the same situation that was approved by the Zoning Board last year. They presented a letter from the Town permitting this use of the property for this purpose during the requested times. The market will operate from 4 – 7 pm, with the possibility of longer hours during the summer months. Vendors will primarily be selling fresh farm produce to consumers. They stated that the emphasis will be on sustainably produced, local products.

The applicant stated that the market will open at 4 pm, with set up beginning at 3 pm, and will close at 7:30 pm, with clean-up of the site ending at 8 or 9 pm. Board members noted that since the market's hours will begin at 4 pm, it should not interfere with Mr. Clottin's vendor business. The applicants stated that there will be 20-25 vendors. They also anticipate additional activities, such as music, cultural events, and cooking demonstrations. Chairperson Mitchell stated that when the applicants intend to hold special events, they will be required to notify the Village one week in advance of the event.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Crooker, 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 from the public wishing to speak about 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 application for a temporary zoning permit for the operation of a Farmer's Market, as submitted.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. *Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.*

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**Sami Mina, 14 South main Street ~ Site Plan**

**Present:** John Limbeck, representing Sami Mina

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

**The Secretary read the legal notice that was published in the March 5, 2015 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, March 16, 2015 at 7:00 pm, to consider an application made by Sami Mina for modification of an approved site plan for the property located at 14 South Main Street, pursuant to Village Code § 210-83(12), Site Plan Approval."*

**Discussion:** Mr. Limbeck stated that this application is for a modification of the approved site plan for 14 South Main Street. He explained that Mr. Mina was unable to place two of the originally approved bollards adjacent to the exterior seating area at the restaurant. The owner of the building had informed Mr. Mina that he has a ten-foot easement on the property immediately adjacent to the Yotality store that extends back the depth of that building. Installing the bollards would have infringed upon that easement and prevented the owner from accessing his properties and from receiving small truck deliveries of goods. Since Mr. Mina could not install the bollards, his originally approved site plan now contained an inaccurate depiction of that portion of the project. Mr. Mina has installed two large urns that block vehicles from entering and exiting in the area. It is understood that these urns will remain in place and that effectiveness of this plan will determine their continued location.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Crooker, 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 Maxey, to close the public hearing at this time, as there was no one from the public wishing to speak about 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 application for a modification to the approved site plan, as submitted.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. *Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.*

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## PLANNING BOARD

### **Pittsford Canalside Properties, 75 Monroe Avenue**

**Present:** Chris DiMarzo; Mark IV; Peter Vars, BME; Joseph Picciotti, Harris Beach

**Discussion:** Chairperson Mitchell stated that this is a continuation of the public hearing for a request for an extension of time to meet final site plan conditions for 75 Monroe Avenue.

Chairperson Mitchell asked if there was any public comment on the specific issues to be discussed at this hearing.

- Justin Vlietstra, Boughton Avenue, commented that in light of possible flooding at the site, it would be in the public interest to resolve the site plan issues as soon as possible.

**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. *Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.*

Mr. Harter reported that the applicants have developed a reasonable internal stormwater design that treats all impervious surfaces, and therefore, Condition 4 of the approved site plan has been satisfied. He stated that as to Condition 3, the applicants have identified the period of July 1 – August 1, 2015 as the time period when construction can occur relative to obtaining the required permits. He concluded by stating that the last issue to be dealt with is development of a plan for restoration of the pre-existing flow of water on the site.

Mr. Vars stated that the applicant has provided a complete, permanent plan by the extension date, as required by Condition 3. He stated that he is requesting that the Planning Board acknowledge that the condition has been met, even though there can still be further review of the plan. Mr. Harter stated that the submitted plan is internal to the PCP property, and the water that is ponding reaches from the CSX property to the Village Green property. He stated that the applicant needs to provide a complete solution, and he suggested removing the blockage in the pipe by staking and televising the pipe.

Mr. Vars stated that he has added notes to the plan that PCP will televise the pipe on their property. He further stated that PCP cannot go onto private property to do the work. Mr. DiMarzo stated that it is not included in Condition 3 that PCP is required to go offsite to correct an upstream issue. He stated that the pipe is a 100-year-old, cracked, clay pipe that did not work and allowed only a trickle of water. He questioned the reason that it is PCP's responsibility to correct a problem that is not located on his property. Mr. Turner presented an email that was sent from one of the applicants to the Village stating that water was gushing from the pipe. He noted that this email confirmed that the pipe had been functional.

Chairperson Mitchell stated that part of the upstream issue was caused by the remediation process on the site. Mr. Harter stated that activities where the pipe was damaged and the pipe flowed into excavation had the potential to introduce debris on the other side of the tracks. He also noted that the Village has reviewed aerial photography taken of the site prior to the spring of 2013 where this condition did not exist, based on vegetation and drainage, whereas currently, it is very evident that the footprint of the pond is revealed.

Chairperson Mitchell stated that the Village does not have a plan for restoration of the pre-existing flow unless there is assurance that the plan is going to work when it is completed. She further stated that the applicants will need to perform work in whichever location is necessary to restore the flow, which may mean working with the Village to obtain a permit to go onto either CSX or Village Green property to assure that the pipe is functional.

Mr. DiMarzo suggested that this requirement has changed from what was originally approved. He stated that the Engineer is now requesting a "complete solution," which requires PCP to perform work offsite. Chairperson Mitchell stated that the requirement has not changed, that Condition 3 states, "Pittsford Canalside Properties will provide the Planning Board a plan which provides for the restoration of the above mentioned pre-existing flow of stormwater approved by the DEC, the Village of Pittsford, and any other required agencies,

together with a timeline for the implementation of the plan and the construction required thereby, acceptable to the Village Engineer.”

Mr. Picciotti stated that there is no legal stipulation that a municipality can compel a developer to do work offsite. He further stated that PCP can only address issues on their property. Mr. Turner stated that the final site plan condition requires that the ponding be remediated, and the condition is satisfied when the Village Engineer approves the plan. Mr. DiMarzo asked the Planning Board members if, when they granted site plan approval, they had intended that the developer would be required to perform work offsite. Member Maxey stated that the Planning Board determined that the pipe needed to be connected and that there would be an agreement with the owners of the offsite properties as to how this would be accomplished. He stated that the objective is to regain the flow of water through the pipe.

Mr. DiMarzo commented that the Village was supposed to coordinate with other property owners to remediate the situation on their properties. Chairperson Mitchell stated that the Village cannot spend taxpayer dollars for work to be done on private property. Mr. Harter stated that a temporary easement can be obtained to access the offsite properties. Mr. DiMarzo reiterated that PCP does not want to be held responsible for remediating the ponding condition on the offsite properties.

Chairperson Mitchell stated that there was no ponding problem along the railroad tracks until the pipe was broken. Mr. Vars stated that a wetland specialist determined that the area had been inundated with water for a significant number of years. He further stated that if the Village will coordinate to secure temporary rights of access to the private property, PCP would be willing to pump out the ponded water to discover the magnitude of the problem. Mr. DiMarzo stated that PCP will connect the pipe and snake or jet it from their side, but if there is any damage, PCP will not be responsible for repairing it. Mr. Limbeck stated that as a safety issue, a municipal use permit should be obtained to pump the water.

Chairperson Mitchell stated that the plan needs to be approved by the DEC for remediation and water quality. She stated that the time of July 1 – August 1, 2015 for construction is an appropriate timeframe. She also commented that the Board cannot consider Condition 3 satisfied until the DEC’s report is complete. Mr. DiMarzo requested that the timeframe of Condition 3 be waived.

Member Rubiano discussed the possibility of an emergency situation occurring, and Mr. Harter explained that in that case, emergency powers would be invoked for access to the properties.

Mr. Harter determined that the proposed plan is acceptable, with the provisions that PCP will televise and snake or jet the storm sewer from the PCP side of the property to verify the condition of the existing sewer, and, once the right of access is obtained, PCP will pump down

the existing ponding water at the upstream end of the pipe. The Planning Board will use its best efforts to secure permits and/or easements as needed to allow access to the CSX property.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, that the applicant's proposal meets the criteria of Condition #4 of the final site plan.

**Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, that the plan discussed at this meeting satisfies the requirements of the Village Engineer, and that the lapse provisions of Condition #3 be extended to 9/21/15.

**Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.**

#### **EXECUTIVE SESSION**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to enter into a closed attorney-client privilege session at 9:00 pm.

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

**Motion:** A motion was made by Chairperson Mitchell, seconded by Member Crooker, to leave the executive session at 9:15 pm and re-enter the regular session of the meeting.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to approve the application for a temporary zoning permit to operate a community Farmer's Market at 10 North Main Street, as submitted.

**Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Crooker, to approve the application for a modification of the site plan for 14 South Main Street, as submitted.

**Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey - yes. Motion carried. The decision was filed in the Office of the Village Clerk on March 16, 2015.**

#### **Minutes:**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to approve the 1/20/15 minutes, as drafted.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to approve the 2/16/15 minutes, as drafted.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the 9/15/14 minutes, as drafted.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the 10/20/14 minutes, as drafted.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Crooker, to approve the 1/29/14 minutes, as drafted.

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

**Adjournment:** There being no further business, Chairperson Mitchell adjourned the meeting at 9:30 pm.

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Linda Habeeb, Recording Secretary