

**VILLAGE OF PITTSFORD**  
**PLANNING AND ZONING BOARD OF APPEALS**  
Regular Meeting – August 17, 2015 at 7:00 PM

**PRESENT:**

Chairperson: Justin Vlietstra  
Members: Jo Ann Shannon  
Jeffrey Bove  
Susan Lhota  
Heather Erwin  
  
Attorneys: Jeff Turner  
Mindy Zoghlin  
Building Insp.: Kelly Cline  
Recording Sec: Linda Habeeb

Chairperson Vlietstra called the meeting to order at 7:00 P.M. He stated that the primary item on the agenda is Pittsford Canalside Properties' Appeal of a decision rendered by the Architectural and Preservation Review Board to deny a Certificate of Approval for the Westport Crossing Community located at 75 Monroe Avenue. He explained that the public hearing for 50 State Street will be adjourned to a future date, at the request of the applicant.

**Conflict of Interest Disclosure**

The Village Board of Trustees has passed Local Law 15, which law requires disclosure of conflicts of interest or potential conflicts of interest prior to each meeting of boards with discretionary approval authority.

- Chairperson Vlietstra and Member Bove disclosed that since they had publicly expressed opinions about the 75 Monroe Avenue project, they will recuse themselves from the discussion for that portion of the meeting, due to the appearance of having a bias regarding the project.

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

**Present:** Chris DiMarzo, Anthony DiMarzo, Mark IV; Peter Vars, BME; Frank Pavia, Harris Beach

**Discussion:** Ms. Lhota stated that she is continuing as Acting Chairperson of the Zoning Board of Appeals for the 75 Monroe Avenue portion of the meeting. Ms. Lhota explained that this is a continuation of a public hearing of an appeal from a decision rendered by the Architectural and Preservation Review Board to deny a Certificate of Approval for the Westport Crossing Community located at 75 Monroe Avenue. The Board closed the public hearing on July 20th and left the public comment period open to August 10th. On August 10th, the Village Board asked for an extension until the end of the day on Wednesday, August 12th, to submit comments. The Village Board explained that it was meeting on August 11<sup>th</sup>, and the comments involve a response to legal issues raised by PCP. The request for an extension was sent to the applicant. The Village Board submitted those comments on August 12th. On August 13th, PCP stated that it was not in a position to consent to the extension of the comment period, but requested an opportunity to

respond to any comments received by August 14th. PCP and its attorney submitted responses to comments on August 14th.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to grant the Village Board an extension to August 12<sup>th</sup> to submit public comments in connection with this matter, and to grant the applicant an extension of time to August 14th to respond to any public comments.

**Vote: Shannon - yes; Lhota – yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

Ms. Lhota stated that the next matter is to insure that the application is complete and that the Board is in a position to act upon it. Village Code Section 210-62C(1)(f) requires that the application for a Certificate of Approval include a verification from the Village Clerk's office that the project (1) conforms to the zoning code, (2) is a permitted nonconforming project, and (3) that all necessary variances for the proposed project have been granted. She further stated that the requirements of Subsection 1 have been met because on December 20, 2012, the Village Board passed Resolution 20 of 2012, approving PCP's application for a Special Permit, subject to final site plan approval by the Planning Board and issuance of a Certificate of Approval by the APRB. The Special Permit resolution states that the Board of Trustees hereby determines that subject to precise definition as part of the site plan approval and as part of the application for a Certificate of Approval by the APRB, the regulating plan is in compliance with the building design standards of the Code. On November 11, 2014, the Planning Board passed a resolution granting PCP final site plan approval for the project. It appears that Subsection 2 does not apply because there is no issue with respect to a prior nonconforming use.

Member Lhota continued, stating that the requirements of Subsection 3 have been met because on October 29, 2014, the Village ZBA granted the required variances for the 75 Monroe Avenue project. It granted PCP's application for: (1) an area variance to eliminate the requirement of an elevated speed table at the project entrance; (2) an area variance for restaurant parking and the side yard; and (3) an area of variance to install two monument signs at the entrance of 75 Monroe Avenue. At that meeting, the ZBA found that PCP did not require an open-space variance for the project. She further stated that this Board may interpret Judge Ark's decision of March 9, 2015, in *Pittsford Canalside Properties v. Village of Pittsford Zoning Board of Appeals, et al.*, as instructing the Board to assume that the application requirements have been met.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to find that PCP's application for a Certificate of Approval is complete.

**Vote: Shannon - yes; Lhota – yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

Member Lhota stated that PCP submitted three memoranda to the Board in connection with its appeal. Those memoranda are dated June 25, July 15, and August 14, all of 2015. All of these memoranda contain legal arguments about whether the APRB had the power to deny PCP's application for a Certificate of Approval based on mass and scale. All of these memoranda cite provisions of the Village of Pittsford Zoning Ordinance. She stated that the ZBA has the power to decide any questions involving the interpretation of any provision of the zoning code under Village of Pittsford Zoning Code Section 210-113B(1). She then asked the other Board members if there was any discussion regarding this matter, to which the Board members responded in the negative.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to consider that PCP's application is one to decide any question involving the interpretation of the zoning code, and that this Board may interpret whether the APRB had the power to deny PCP's application for a Certificate of Approval based on mass and scale.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

Member Lhota explained that at this point, she will ask the ZBA attorney, Mindy Zoghlin, for a recommendation as to whether the Certificate of Approval in this appeal may be denied on the basis of mass and scale.

Ms. Zoghlin stated that it is her opinion that the APRB properly considered mass and scale in connection with its December 10, 2014, decision, and that the ZBA may now consider mass and scale in connection with this appeal. She stated that she submitted a letter that explains in detail the basis for her opinion. She then stated that she will briefly summarize the highlights of the letter.

First, the Village Board delegated its power to consider mass and scale to the APRB under Article 14 of the Village Code. Section 210-60A(1)(f) specifically requires the APRB to consider the compatibility of building height, scale, mass, and bulk to adjacent and nearby buildings and the surrounding neighborhood. Moreover, the Code requires the APRB to consider, "any factors it may deem pertinent" under Section 210-60A(1)(e). And the Code further requires the APRB to consider composition, design, texture, and other visual qualities in issuing a Certificate of Approval for new construction. She stated that the second reason is that the APRB's power to issue a Certificate of Approval under Article 14 is in addition to, and serves a different purpose than, the Village zoning and planning powers. The Village created the APRB under New York State General Municipal Law Section 96-a, which specifically empowers a Village Board to protect historical places, in addition to any power or authority it has under planning and zoning laws. The APRB does not have a zoning purpose; its sole purpose is to protect and preserve historical places in the entire village, including 75 Monroe Avenue, as a historical place. In fact, the APRB is not even allowed to consider an application for Certificate of Approval until the municipality has established that all the zoning requirements have, in fact, been met. That can be found in Village Code Section 210-62C(1)(f).

Ms. Zoghlin further stated that one thing that she thought was really important was that the Appellate Court in this department considered this very issue in the case of *Zartman v. Reism*, at 59 A.D.2d 237, where it specifically is held that a Certificate of Approval does not take the place of zoning, but rather, is in addition to other requirements of compliance with the zoning regulations. And in that case, the Appellate Court also found that a preservation board has the power to deny a Certificate of Approval, even if the applicant has applied for and received all of the necessary zoning approvals. She stated that the third reason is that the Village Board's decision granting the Special Permit and regulating plan does not itself bar the APRB from considering mass and scale. The Special Permit resolution states that the building height and percentage of building stories were established as maximums, and no minimum story heights or minimum percentages of building stories were established. And when the special permit resolution used the words "mass and scale," it used classic zoning language.

She continued by stating that on Page 3, paragraph 2, the Special Permit resolution states that the proposed development will be compatible, in terms of scale, massing, orientation, and architectural design, with the visual character of the Village, and will not alter the essential character of the neighborhood, nor be detrimental to the residents thereof. That is classic zoning language; it's not historical preservation language, architectural language. The Special Permit resolution also acknowledged that the project's mass and scale would have to be adjusted to make sure it was visibly compatible with the Village. And the Special Permit Resolution said, in particular, that adjustments will need to be made to the project's distribution of bulk, mass, and scale. This can be found on page 9, paragraph E, of the Special Permit resolution. The Special Permit resolution was explicitly subject to the APRB's issuance of a Certificate of Approval, in condition 1 on page 11. And also, the project has changed since the Village Board of Trustees issued this Special Permit in 2012. So even if the Special Permit somehow limited the APRB's authority to consider mass and scale, it would apply only to the project as it existed in 2012.

She stated that the fourth reason that she is making this recommendation is that there is absolutely nothing in the Village's R-5 zoning section that bars the APRB from considering mass and scale. As mentioned previously, Section 210-19.3 sets forth the building dimensional standards for the R5 District, but that doesn't mean that everything in a project can be built to the maximum limits. The R5 zoning regulations do not establish minimum story heights or percentages of building stories. In fact, nothing in Section 5A of the Village Code limits the APRB's authority to consider mass and scale in connection with the issuance of a Certificate of Approval. And the last reason is that once the legislative body delegates its power to an administrative body, that delegation cannot be undone except by an amendment of the zoning ordinance, and that wasn't done here. The Village never took back the authority that it gave to the APRB to consider mass and scale in connection with the issuance of a Certificate of Approval.

Ms. Zoghlin concluded by stating that for these reasons, it is her opinion that the APRB properly considered mass and scale in connection with the December 10, 2014, decision, and that the ZBA may now consider mass and scale in connection with this appeal.

Ms. Lhota stated that there are two recommendations or two parts to counsel's recommendation. The first one is that the APRB properly considered mass and scale in connection with PCP's application for a Certificate of Approval.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to find that the APRB properly considered mass and scale in connection with PCP's application for a Certificate of Approval.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, that the ZBA must consider mass and scale in connection with PCP's appeal of the APRB decision on its application for a Certificate of Approval.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

Ms. Lhota stated that the Board will turn its attention to the merits of PCP's appeal. She stated that the Board will consider the application for a Certificate of Approval in light of the criteria set forth in the Village Code. Village Code Section 210-60A states that the APRB shall have the following powers and duties:

- (1) Review of plans. It shall be the duty of the APRB to review, approve, or disapprove all plans and building permit applications for the construction, reconstruction, removal, restoration, alteration, or demolition of any exterior architectural feature within the district. The APRB shall have the power to pass upon such activity before a Certificate of Approval is granted provided that the APRB shall pass only on the exterior features of the building or structure as are visible from the public street or waterway, and shall not consider interior arrangements. In deciding upon all such plans, the APRB shall be guided by the standards for review enumerated in paragraph 210-61 and shall give consideration to any factors that may be pertinent including:
  - (A) The historic, cultural, or architectural value and significance of any building or structure;
  - (B) The appropriateness and authenticity of the proposed exterior design arrangement, texture, or material and fenestration proposed;
  - (C) The relationship of the proposed exterior design and design features to the historic value and architectural style and character of buildings and structures in the surrounding area and in the district;
  - (D) The extent to which the actions proposed in the permit application promote the purposes of this article;
  - (E) The relationship of the building or structure to open spaces, public ways, signs, landscaping and accessory uses located at and nearby the premises being considered; and
  - (F) The compatibility of the building height, scale, mass, and bulk to adjacent and nearby buildings and the surrounding neighborhood.

- (A) Section 210-61B of the Village Code states that the APRB shall be guided by specific standards in issuing a Certificate of Approval for new construction. These standards are as follows:

- (1) New construction shall be consistent with the architectural styles of historic value in the applicable district. On sites of proposed new construction where structures adjoining the site are significantly dissimilar periods or styles of architecture, the APRB may approve such period or style of architecture as it deems proper for the site and in the best interests of the district; and

- (2) In applying the principles of consistency and compatibility with the architectural styles existing in the district, the APRB shall consider the following factors: Composition, design, texture, and other visual qualities.

Member Lhota stated that the question is, "How does the Westport Crossing Development measure up against the criteria just enumerated"? She then turned to Member Erwin, stating that since she teaches visual and fine arts at both RIT and St. John Fisher, she can provide the Board more objective criteria.

Ms. Erwin stated that there's a subjective element in judgments about design quality, and people often disagree about what they like. Such differences of opinion and matters of personal taste should not be allowed to obscure the fact that it is possible to arrive at opinions about design

quality that are based on objective criteria. There are many ways of doing this, but asking the following questions may help us. These questions encompass both the quality of the building itself and its quality as a contribution to the design of the neighborhood in which it is situated, in this case, the Village of Pittsford.

Ms. Erwin continued by discussing the site. Under Section 210-60B, the Board can discuss the layout, scale, and proportion of the site, and how the proposed buildings relate to the site. Section 3 of the historic design principles relates to scale. Scale is the relative or apparent size of the building or architectural element in relation to the nearby buildings and its surroundings. The dimensions of a building define its scale. Individual elements, including doors, windows, porches, and roof elements, all influence a building's apparent scale. Scale is one of the most important features determining whether a building is compatible with its setting. A stark contrast of scale between new and existing buildings disrupts the visual harmony of the street and neighborhood. The question specifically is, how does the proposal relate to the site? The site now is undeveloped land along the canal. And having a building there is going to be a big change. She stated that she is not opposed to a development at the site. But the question is, what in the neighborhood is of like or companionable size to that building? This will be a topic of discussion later when the Board discusses the wider setting. She continued by stating that she wanted to make sure the Board returns to discussion of the site itself.

Member Shannon stated that in the Preservation Consultant, Ted Bartlett's, letter dated December 2nd, 2013, on the second page, the second paragraph, he states, "The breaking up of the facade of the buildings' roof lines and setbacks in the Brown plan offered the buildings to have a better visual appearance and be part of the site, not dominate and fill the site as the present plan does."

Member Lhota stated that there is a question of using the site in a compatible way with the other existing buildings along the canal. Member Erwin stated that these are issues that the Board needs to discuss in a way that our personal or experiential opinions can be in addition to the quantifiable, more objective ones. The only site plan that the Board can review is the site plan that is dated July, 2015. The question is, did that plan create any positive and imaginative responses to the problems and constraints that people were feeling before? Member Lhota stated that anybody who looks at the plan can see a consistent style along the buildings. She commented that all along the canal, especially the Schoen Place area, it is not a very consistent style. In fact, it represents different responses to the economics of the time and the needs of the time. The Westport Crossing building elevations, dated November 29, 2014, show buildings that are very similar in style. Member Lhota stated that in her opinion, it is not imaginative. The Canal Commercial area on Schoen Place, which has some buildings with lower stories, and some taller, is a response to historic development. This proposed development is coming out from the present time, but it doesn't reflect any type of history in terms of different collections of buildings.

Member Erwin stated that the next question is, how does the proposal relate to its wider setting? And that is not just Schoen Place, but it is the Village as a whole, according to Village Code Section 210-60A(c). She stated that when compared and contrasted with the surrounding area, her opinion is that there is not a very cohesive, contextual unity. Member Lhota stated that there is obvious compatibility in the development, but the question is, is it compatible with the broader canal/village scape? And looking at other vistas in the village, this seems inconsistent with what we are used to seeing and what visually has defined the village. As far as the primary entrances to the village, it is something with a lower horizon; it is open. The East Avenue side, the State Street side, the South Main Street entrances all reflect a period and a determination to maintain a certain character to preserve the historic district.

Member Erwin stated that the next topic for discussion is Village Code Section 210-60A(c): The relationship of the proposed exterior design and design features to the historic value and architectural style and character of buildings and structures in the surrounding area and in the District. She stated that her opinion is that this proposal is a deviation of the sky scape of Pittsford Village in that the height of the buildings is not managed in a way that is consistent to Village and State Code regulations. She further stated that the impact of this new development will have an impact on generations to come in the Village, and it will forever change the Village scape in that the emphasis and focal point upon entering the Village from one of its most important entrances will overshadow the Village itself. She stated that in an evaluation of the mass and scale, one has to consider the mass and scale not only to the project itself, but in the larger context of the entire Village.

Member Shannon stated that the APRB has a lawful obligation to protect the integrity and character of the Village. And the APRB specifically is charged with protecting the historic character of the whole community, the whole Village, and especially as the Village is a local designated historic and architectural design district.

At this point in the meeting, Ms. Zoghlin requested that members of the audience refrain from making comments while the Board is deliberating.

Member Erwin stated that the next topic for discussion is density of the proposed development. She referred to Village Code Section 210-60E and F: The relationship of the building or structures to open spaces, public ways, signs, landscaping, and accessory uses located and nearby the premises being considered; the compatibility of the building height, scale, mass, and bulk to adjacent and nearby buildings and the surrounding neighborhood. Member Lhota stated that the APRB's findings discussed density in terms of the volumetrics. They found that in comparing Westport Crossing with Schoen Place and commercial Main Street, the density of Westport Crossing is almost three times that of Schoen Place and twice that of Main Street. That's not debatable; these are the measurements of the proposed development compared to Village structures.

Member Erwin stated that the next topic for discussion is the impact of the project on close views. She stated that she has visited the site, and her opinion is that when entering the Village over the Monroe Avenue bridge, the impact on the close view is substantial. The development would be the first thing in view, and it is disproportionate to the other buildings in the Village. She continued by stating that she would prefer a project that, upon close view, is an integral, contextual piece of the Village. The main thing with the impact on close views is that the project will be overpowering. It overpowers the Village scape and the scale and rhythm of its surrounding neighbors. And "respect" means to show esteem and to honor, in this case, the historic nature of the Village. Ms. Lhota added that "respect" also means not introducing a new element that is abrupt, but something that is in harmony and something that doesn't distract from what's already there but, in fact, can enhance it by being a continuation of what is already in place along the canal and in the Village.

Member Erwin stated "rhythm and movement" are architectural and visual arts terms. Schoen Place, for example, has a certain rhythm that reminds us of what Pittsford Village really was, which is a farming community. It has become an upscale Village, but in the beginning, it was a farming community. And some of those original structures still remain today, and they look like they used to, except for updates. Member Lhota added that they also reflect different uses.

And as the Village grew, those uses resulted in buildings of different sizes. And that's an important factor to consider in this discussion. There may be a ranch-style building next to something two stories high that reflects different periods and styles, but it all works together in a way that presents a horizon that is basically in harmony and that reflects the history. It's a historic district, and introduction of this new element will be an overpowering focal point.

Member Erwin stated that next, the Board will discuss materials of the buildings, which deals with Village Code Section 210-61B(1) and (2). According to the historic design principles, Section 3, "Not all buildings in the Village are covered with wood flat board. Public and commercial buildings as well as many large residences in the Village have been constructed of brick, stucco, or, more rarely, stone. Typically, vinyl, aluminum, concrete, metal and stucco applied over foam are not appropriate building materials for new construction in the historic areas of the Village. There are a few exceptions. A few historic buildings are built of concrete, and a few of the Schoen Place barns were historically sided with metal." She stated that in reviewing the proposed plan, there is a great deal of stone. She stated that she is unsure what type of stone it is. She pointed out that there is very little stone on buildings in the Village. One of the problems with the plan is the aesthetics as far as being contextual. The Village generally has very simple buildings. She stated that her opinion is that the developers tried to break up the large masses so that they would look like there's a linear aspect to the architecture. The building materials are contextual to one another, but the way that they are distributed throughout the building does not conform to the Village.

Member Lhota stated that there are ways to look at it just from a perceptual perspective.. What is our perception when we compare the project to other neighborhoods, to other entrances, to anything else in the village? That's what we need to keep addressing. How is this compatible?

Member Erwin referred to Village Code section 210-60A(1)(f). How does the architecture present itself to the viewer? Is there a strong composition in the pattern of solid and void openings in the facade? Does the detailing of the materials show signs of empirical thought or originality in the way the building is put together? She stated that in context, which is the charge under 210-60A(1)(f), she did not find its originality to create any type of contextual feel where it will be a common integral part of the Village.

Member Shannon cited the New York State Office of Parks, Recreation and Historic Preservation (SHPO) guidelines to new construction. And specifically, one paragraph, paragraph 3, says that "Separate new construction, such as a new building along a historic street or a new path within a historic park, should be of the same general scale or size as adjacent historic counterparts. Considerations include overall dimensions, as well as size and significant features, such as route slopes and overall height or road width and general alignment. A general rule of thumb is that the new construction falls within 10 percent of the scale of historic equivalents." Ms. Lhota stated that it is not within 10 percent, and, as a matter of fact, it is substantially above the volumetrics. She stated that she wanted to incorporate pages 9, 10, 11, and 12 of the APRB Findings of Fact.

Ms. Lhota continued with a reference to the public comments. She stated that one was from Mr. Morse, stating that he would like to see the land developed. Member Lhota said that she agreed with him. She also referenced a public comment from Village resident Marty Martinez, who made the comment at the last Zoning Board meeting. His comment was that new construction should comply with Village Code. She stated that the two points made by these comments are compatible. She continued to state that there are some quantifiable or more objective ways to review the proposal from a historic perspective. She further stated that she has lived in two villages: Pittsford



and Greenwich Village. The fact that they are “Villages” is easily recognizable because of the definition that the buildings themselves provide. And there is a visceral, emotional response to the Village because it is defined by mass and scale, and that's what we are trying to preserve for the Village of Pittsford.

Member Erwin stated that she will read a memo, dated July 12, 2015, to the Village Zoning Board of Appeals from the Village Board of Trustees:

“Since the time the R5 Code was developed and approved, the Village Board of Trustees has consistently intended the Architectural Preservation and Review Board to have full regulatory authority over development and construction within the R5 Zoning District. The corporate limits of the Village of Pittsford are designated as a local historic district. The Village of Pittsford is a Certified Local Government, which means the Village must follow historic resource and design review methodology standards developed by the National Park Service and administered by the Field Services Bureau of the New York State Office of Parks, Recreation and Historic Preservation. The Village Board has consistently worked to ensure project review procedure complies with CLG standards. According to Kathleen Howe, NYS OPRHP CLG representative, all design review standards for one specific project or zoning district would clearly violate the Village's CLG application.”

Member Erwin stated that the Board has standards that must be complied with. She reiterated that she would like to have the area developed.

Member Lhota stated that the Board's deliberations have come to an end.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to affirm the APRB decision denying PCP's application for a Certificate of Approval for 75 Monroe Avenue.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to deny PCP's application for a Certificate of Approval.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

**Motion:** Member Lhota made a motion, seconded by Member Shannon, to disapprove the plans for the Westport project as described in the BSE Building elevations dated November 29, 2014; BME final site plans dated July 3, 2015; and the BME final landscape plans dated July 7, 2015 pursuant to Article XIV of the Village Code.

**Vote: Shannon - yes; Lhota - yes; Erwin - yes. Motion carried.** The decision was filed in the Office of the Village Clerk on August 17, 2015.

Mr. Pavia asked on what legal basis the Board was disapproving the plans. He stated that this hearing is just to appeal the APRB decision.

Ms. Zoghlin responded that Village Code, New York State Village Law 7-712A(13), and the Village of Pittsford Zoning Code Section 210, Article 14, require the APRB, in this case, the ZBA, to take

action with respect to approving or disapproving the plans. Mr. Pavia stated that the only action before the APRB was the Certificate of Approval. There was no site plan that was before the APRB for approval. Ms. Zoghlin referred to Section 210-62C(4), which states that "The APRB shall approve or disapprove such plans." She stated that that is the basis upon which they are making a determination.

Member Lhota stated that this concludes this portion of the meeting.

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Information only:

**Northfield Common ~ 50 State Street**

**Discussion:** Mr. Turner explained that Fox Properties required the Village engineer's approval prior to repaving 50 State St. This is a Type II SEQRA because it is the interpretation of an existing code and it does not require any referral to Monroe County Planning. In terms of precedent, there are very few building complexes, so there is very little occasion to deal with this issue. However, we do routinely review repaving of driveways from an engineering perspective to insure that no drainage problems will be created. The legal issue being raised by this appeal is whether, because it is alleged that this complex predates our parking ordinance, the requirements of 210-81 (G) (4) apply.

John Limbeck rendered a decision on 8/11/14 that essentially states that because of the restriping and changed direction of travel, the owner had created a new parking and loading facility, and therefore, the requirements of section 210-81 now applied. There was no appeal of that decision within the permitted 60-day period.

Other changes that we know have occurred at 50 State St is that 45 Schoen place was combined with 50 State in 2003 (the map was filed with the County Clerk in 2005) and a new building with new parking was added in 2003 or 2004, which, pursuant to 210-77, makes 210- 81 applicable to all of 50 State Street.

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

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Linda Habeeb, Recording Secretary

