

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – June 20, 2016 at 7:00 PM

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Jeffrey Bove
Susan Lhota
Heather Erwin (absent)

Building Insp: Floyd Kofahl (absent)
Recording Sec: Linda Habeeb
PZBA Attorney: Mindy L. Zoghlin, Esq. (absent)

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to open the workshop at 6:30 pm.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to enter executive session to discuss current litigation at 6:50 pm.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to exit executive session at 7:00 pm.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to open the meeting at 7:00 pm.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Conflict of Interest Disclosure:

Chairperson Vlietstra asked if anyone had a conflict of interest with any of the applications before them, and no one had a conflict of interest to report.

Present: Mayor Corby, Trustee Brizee; Casey Dunlavey, Lock 32; Ron Davis, Jay Birnbaum; Janet & Mike Reynolds

Chairperson Vlietstra asked if anyone was present for 50 State St and received no response. Mr Vlietstra stated that the Building Inspector could not attend tonight's meeting and he would like to defer the hearing for 50 state until the Board's next meeting. The Board's secretary stated that applicant requested it be heard at the Board's next meeting on July 18.

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to leave the public hearing for 50 State St. open and continue review at the Board's July 18th meeting.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Discussion: Mayor Corby explained that the Trustees currently have two special permit applications before them to review, and they are requesting input from the Planning Board regarding these applications. Member Vlietstra stated that this will be an informal discussion.

Lock 32:

Mayor Corby stated that the first application is to allow live music at Lock 32 Brewing Company, located on Schoen Place. He explained that the Trustees are requesting the Planning Board's input regarding the impact of live music inside Lock 32, between 7-10 pm, on the outside environment. The applicant stated that there are usually between 1-4 performers on any given night. Board members questioned the applicant as to whether they would consider providing unamplified music in order to lower the impact of the music on the surrounding areas. Mr. Dunlavey stated that the building has low ceilings, and without amplification, the volume of the music is too low to hear. He further stated that the music is basically background music that allows patrons to converse. Member Bove stated that it is difficult to completely contain the music, and he expressed his opinion that the music adds to the vibrancy of the Village. Mayor Corby stated that he and Member Vlietstra had visited the site during a time when music was playing, and that the music was fairly loud in front of Lock 32's canal side window, but it dropped off quickly as you walked down the canal path. He stated he observed people talking along the canal path and carrying on as usual. Music was completely inaudible further down the canal path near the Flour Mill. He could not hear music from the State Street bridge or on Boughton Avenue. In fact, a party being held at a house across the Canal seemed to be louder with much more impact than the music at Lock 32. Mr. Vlietstra agreed and stated that he was surprised at how quickly volume levels fell. Directly in front of the open window it was loud, but if you walked just 30 feet and beyond, the music dropped quickly to be well below the levels of normal conversation. He stated that he had no trouble holding a conversation directly in front of the adjacent businesses, Game Gamut and Jembetat. Standing at the end of the Jembetat building, the music was very quiet and drowned out by the air conditioner. Mr. Vlietstra stated that this location is far from residents and is the best place in the Village to play louder music without impacting residents. The closest residence is the Canal Lamp Inn (27 N. Main), which is about 520 feet away. The Corby home (44 N. Main) is about 600ft away, homes behind the Pittsford Dairy are 750ft away, the home at 35 State Street next to Chase Bank is 750ft away, and the house at 58 State Street near Olives restaurant is 1200ft away. Given that sound along the Canal path was essentially inaudible just past the end of the building, he stated that he did not see any concerns.

Village resident, Janet Reynolds, stated her concern that during the Friday night band concerts, the music from Lock 32 prevents the residents from enjoying the concerts. Mr. Dunlavey stated that they no longer have music during the concerts. Mr. Reynolds stated that the room is small, and therefore, it is not necessary to amplify the music. He further stated that people want to walk along the canal and enjoy the ambiance, without having to listen to loud music. If multiple establishments were to play music along the Canal and compete with each other for patrons it could create an unpleasant scene for those wanting quiet enjoyment of the canal. Mayor Corby stated that the Board needs to consider the type of music that is being played, the time it is audible, the volume of the music, and the proximity to the residences. The other establishments along the Canal, such as

the Wine Bar and Label 7, are much closer to residents and not an appropriate location for loud music. Mr. Vlietstra stated that the Wine Bar was granted a permit recently for acoustic music, which makes sense at that location, due to its proximity to residences. Mr. Vlietstra asked Janet Reynolds if she could hear music from Lock 32 at her property, noting that she had one of the closest homes. She said music was inaudible.

18-20 South Main Street:

Mayor Corby explained that the applicant is proposing opening a diner/restaurant at the former Salvatore's Pizza, located at 18, and the adjacent 20 South Main Street. The restaurant will feature breakfast, lunch, and casual dinners, with beer and wine available. The hours of operation are: 7:30 am – 10:00 pm, Monday- Sunday. Mayor Corby stated that a concern with this proposal is an intensification of use without adequate parking. He also stated that this business will require a larger kitchen and the Boards need to consider ventilation requirements for this use. He also pointed out that there potentially will be a larger amount of trash generated with a restaurant, as compared to the pizzeria. Member Lhota stated that she runs a nearby shop and finds that there is ample parking in various areas of the Village. She also noted that the widely held belief that "there is no parking in Pittsford" is difficult to dispel, despite the fact that there are over 2000 parking spots in the Village – in municipal lots, side streets, and on Main Street itself. On-street parking is almost always available at a distance closer than where one might park at Wegmans or the Mall. Mayor Corby stated that the goal is to have the correct ratio of parking-to-business capacity.

Village resident, Janet Reynolds, expressed concern with (1) the impact that this use will have on the residential neighborhoods, particularly on Church Street, which is where the establishment's parking is located; (2) the "creeping commercialization" of the Village's residential areas; (3) the effect that this use will have on property values of Village residences; (4) the fact that there are too many establishments in the Village that serve alcohol; and (5) the fact that this location is not more than 100 feet from a residential area.

Member Bove stated that there has been a progression of different commercial trends over the years in the Village, and restaurants generally are successful businesses and are preferable to empty storefronts. Member Lhota stated that competition is healthy for the businesses in the Village and contributes to the vibrancy of the Village. Mayor Corby reiterated the importance of protecting the residential neighborhoods located in close proximity to the Business District. He said that the Boards will balance all the issues and strive to create a good mix of businesses that benefit all the needs of the Village.

The applicant, Mr. Davis, stated that the business site currently has seven parking spaces in the rear of the building. He said that he is willing to ask his employees to utilize those parking spaces if customer use creates undesirable traffic impact on Church St. He also stated that he is proposing serving beer and wine, and that the rule that the business not be located within 200 feet from a church or school applies only to liquor. He stated that distances to schools and other bars will be reviewed as part of his liquor permit application, and if requirements are not met, then he will not be able to obtain a permit. He stated that as to the ventilation issues, his needs will be less than the venting required for the previous business, so that cooking odors will be reduced from previous levels when Salvatore's was operating at the location. He further stated that he will be using 2-3 totes for garbage, with pickup three times a week, if needed. There will be no dumping of glass bottles after 9 pm. Ms. Reynolds pointed out that the special permit restrictions on garbage disposal are not always enforced, but she noted that the previous tenant, Salvatore's, did a good job with trash. The owner of the building, Mr. Birnbaum, stated that he will assure that all conditions of the

special permit be complied with and will make sure trash is properly handled. Member Vlietstra stated that people want to live near restaurants and shops in a Village, and the goal is to ensure that adverse impacts, such as noise and odors, are carefully mitigated. No one wants to hear glass bottles being dumped in the trash late at night. He suggested that the addition of a bicycle rack, on-street parking, pedestrian access, and proximity to a bus stop are factors to consider given the deficiency of on-site parking. Mr. Birnbaum stated that he will add a bicycle rack, as suggested by Mr. Vlietstra.

The Board next discussed the proposed local law to permit serving of liquor, in addition to beer and wine. Member Bove stated his observation that people tend to drink cocktails slower than beer and wine, and he expressed that he didn't see how the type of alcohol served made much of a difference. There is a proposal before the Trustees to expand The Kitchen, on South Main Street, to create a Tapas bar that serves spirits. Trustee Brizee stated that this is a departure from the Village's Comprehensive Plan. She further stated that in the Central Business District, the plan requires retail businesses on the first floor and offices on the second floor. Member Lhota stated that the special permit process, on a case-by-case basis, allows the Village to have some control over the types of businesses coming in to the Village. She further noted that market forces change the dynamics of what is financially viable, and the Village needs some flexibility in zoning to allow property owners the ability to respond to what makes financial sense. The Village cannot predict the types of uses that will be viable in the future. Member Lhota suggested that the special permit process be preserved as it is a good way to consider alternative business proposals on a case-by-case basis. The Comprehensive Plan was written before the popularity of on-line retail, which has created a truly global marketplace. As an example, she noted that she now finds herself in competition with a clothing store in California and often needs to respond to their pricing trends. Mr. Vlietstra said that it is good to get businesses that bring in people on a weekly basis. Businesses like the Dairy, coffee shops, restaurants, and bars bring people into the Village, and then they visit other shops. Mayor Corby stated there are a number of anchor businesses in the Village, and it is good to attract these type of establishments to keep a vibrant Village.

Mr. Vlietstra suggested that the Trustees can add language to the special permit laws to better mitigate common issues. He suggested putting restrictions on hours of operation and hours of trash disposal if within a particular distance of residential properties. If it is written in law then it is very clear and enforceable. He said it is more difficult to regulate hours of operation of bars because that is regulated by state law.

In summary, Mayor Corby stated that the issues to consider are: restrictions on hours of operation for businesses located near residential neighborhoods, method of trash collection, and amount and level of noise produced by the business, with the goal being a diverse assortment of businesses that properly gauge the needs of the community.

Member Items:

Minutes: 5/16/16, 5/23/16

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to approve the 5/16/16 PZBA meeting minutes, as amended.

Vote: Shannon - yes; Vlietstra - yes; Lhota - yes; Bove - yes. *Motion carried.*

6/20/16 PZBA Mtg.

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to approve the 5/23/16 PZBA meeting minutes, as drafted.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Bove - yes. *Motion carried.*

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to adjourn the meeting at 8:30 pm.

Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Bove - yes. *Motion carried.*

Linda Habeeb, Recording Secretary