

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – April 17, 2017 at 7:00 PM

PRESENT:

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

Recording Sec: Linda Habeeb
PZBA Attorney: Mindy L. Zoghlin, Esq.

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to call the meeting to order at 7:10 pm.

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

Conflict of Interest Disclosure:

Chairperson Vlietstra disclosed that he had participated in the planning of the original Farmer’s Market, but that he is no longer involved in the organization and this will not affect any decisions in this matter.

Member Shannon disclosed that she is a member of the Board of Directors of Historic Pittsford, but stated that this would not affect any decisions regarding the 44 Sutherland Street application.

Impact Earth, 35 Lincoln Ave ~ Temporary Zoning Permit

Present: Robert Putney, Impact Earth, Inc.

Discussion: Mr. Putney stated that Impact Earth is withdrawing its application for a temporary zoning permit for operation of a Farmer’s Market at 35 Lincoln Avenue because of the proposed construction of the recreation center at that location. He explained that they are currently considering an area in Northfield Common parking lot that is in the B4 Business District. The Building Inspector stated that the area is zoned for a Farm Market, but not for a Farmers Market. The land can be used for agricultural entertainment. Member Vlietstra pointed out that the LWRP deals with these types of events along the Canal. It was also noted that the area intended for use for the farmers market is a parking lot with spaces used for other businesses.

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to open the public hearing at this time, and the following people spoke:

- Ken Morrow, 48 Sutherland Street, stated that he is looking forward to the opening of the Farmer’s Market.
- A Village resident commented that the Farmer’s Market is good for businesses in the area.

Mr. Putney stated that the proposal is the same as last year. They are planning on having approximately 20 vendors. Member Vlietstra stated that it is beneficial to the Village because this type of event brings in people, who will then, hopefully, stay to patronize Village stores and restaurants. The applicants will

amend their application and resubmit to the Zoning Board. Details of application requirements for the B4 zoning district have to be determined.

Starbucks, 24 State Street ~ Modification of Special Permit

Present: Jerry Goldman, Woods Oviatt Gilman LLP

Discussion: Chairperson Vlietstra explained that the Planning Board received a referral from the Board of Trustees to comment on the Special Permit application for Starbucks coffee shop. In particular, the Board requested commentary on the exterior seating. Mr. Goldman stated that the Starbucks Coffee Company is seeking a modification of the existing Special Permit to establish a location in the former Bruegger's Bagels space in the Town Library at 24 State Street. The special permit was issued by the Village Board to Bruegger's on June 14, 2005. The property is zoned B-2 and restaurants are a special permit use. They stated that they made an informal presentation to the Village Board on March 17, 2017. The Village Board declared this action to be a Type II action under SEQRA. The Village Board also referred this application to the Planning Board for its review and recommendation.

The applicants stated that the operation of Starbucks will be similar to that of the previous business. Bruegger's was approved for 53 indoor seats and 37 outdoor seats. The Starbucks plan proposes 46 indoor seats and 40 outdoor seats, for a net reduction of four seats. Chairperson Vlietstra asked where, in relation to the sidewalks, the proposed seating will be located. He explained that the concern is whether the seating interferes with pedestrian access. Mr. Goldman replied that the seating will be located in the area that is marked by pillars on the plans. The seats are not on the sidewalk portion, but are within the area from the pillars to the building. The entryway will remain clear, with tables on either side and along the building, all within the area underneath the pillars. The sidewalk remains completely clear from the seating. Member Lhota asked if any landscaping will be removed from the site. Mr. Goldman stated that there are no plans for demolition of the landscaping. Member Bove stated he looked into parking availability in their lease and found that there are 6 dedicated parking spaces for employee parking and the entire lot is available for parking for Starbuck's customers. Member Vlietstra suggested that patrons or employees can park on South Street, which may be closer than some parking spaces in the Library lot. Maximum hours of operation will be 5:00 am to 11:00 pm.

Member Vlietstra stated that another common concern with outside seating is noise that may affect the surrounding residential area. He asked the Building Inspector and the Planning Board Secretary if they had heard of any complaints about the noise. Each replied that there have been no reported concerns with noise from the business in that location. He also noted that the outside seating area is approximately 250 feet from the nearest residential homes.

Mr. Goldman stated that there will be no alcohol served at this location. He also stated that there will be no cooking, just beverages and a convection oven for heating food. There are no plans to change the lighting at this location.

Ms. Cline stated that since they are not expanding the floor space, there is no increase in the intensity of use, there is ample parking, and the landscaping was previously approved, nothing triggers site plan

review. Member Vlietstra said that the proposed parking situation is an improvement over the parking at the current Starbucks location.

Board members determined that there are no public concerns or hazards associated with this proposal and no issues that require further review by the Planning Board.

Chairperson Vlietstra made a motion, seconded by Member Bove, to forward the Planning Board's comments to the Village Board of Trustees.

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

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**Sami Mina, 14 South Main Street ~ Advisory Review**

**Present:** Ron Davis, Restaurant Manager

**Discussion:** The owner of Saha Med Grill restaurant, located at 14 South Main Street, is proposing modifying the special permit for restaurant and carry-out operations in the building located at 14 South Main Street. The Planning Board received a referral from the Board of Trustees to comment on the landscaping, left-turn issue, and screening on the east boundary of the property. Mr. Davis explained that some of the neighbors and the Village Trustees had concerns that the sound barrier fence that was part of the original site plan has not been installed. The main concern is the outdoor patio enclosure. There is a 3-foot-high wood fence on the north side that was supposed to be installed, and a 3 foot 6-inch fence on the east side that was supposed to be installed.

The proposal is for conversion of the existing restaurant into a table service operation, with the inclusion of breakfast service. The access to the site and size are not being altered from the current plan that was incorporated with the special use permit. The addition of breakfast service will require extending the hours of operation to include 7-10 am. They will also be closing an hour earlier at 9 pm. With the extended hours, the private parking lot, with 25 parking spaces, will be utilized for the operation.

Board members questioned Mr. Davis about the landscaping. He stated that they have planted 11 new arborvitae bushes on the east side of the property. He explained that in the past, snow has been pushed into the trees and the salt has killed the trees. He stated that he has entered into a new contract with the person that handles the snow removal, and the snow will be removed and will no longer be pushed into the trees. He also stated that the trees will now be wrapped. Member Vlietstra suggested that the applicant consider using a non-woody salt tolerant shrub if problems persist. Some shrubs can be cut right to the ground and still regrow.

Mr. Davis said that the planters along the drive next to the patio have been moved to facilitate snow plowing, and the cement barricade that blocks the parking spaces has been moved to prevent cars from cutting through the parking lot. The drive is a right-of-way for Mr. Newcomb for maintenance. There is also a problem with a power wire hanging low, that belongs to Rochester Telephone, who will correct the situation. He also stated that enter and exit-only signs will be installed that will indicate no left-hand turn, with arrows on the signs. It was suggested that, in addition, directional arrows should be painted on the pavement, which may be a requirement from the 2014 site plan approval.

Ms. Zoghlin stated that if there are existing site plan conditions that have not been performed, then that is a code enforcement issue. If they are not seeking to modify the existing site plan, then there is nothing for the Planning Board to review, because the Board's review is limited to issues normally associated with site plan review, which was completed in 2014. If there is going to be a change to the existing site plan, then that would be for changes initiated by the applicant and require an application to modify the existing site plan.

Board members asked whether the existing dumpsters will be adequate, given the addition of breakfast service. Mr. Davis said the existing dumpsters will be adequate. There is a gap in one of the dumpsters, which will be closed up and painted. Deliveries will be in a mid-size truck and a van, two times a week, and one truck will park on Main Street.

Ms. Cline stated that the concerns that were raised by the Village Board were the change of hours and the intensity of use of the business because of the addition of breakfast service.

Member Bove indicated that since the applicant will only be making modifications that were previously approved by the Planning Board in 2014, none of the changes triggers site plan review. The Planning Board previously considered landscaping, screening, access, traffic, etc. and approved a site plan.

Member Vlietstra stated that he is aware of concerns from residents about commercial traffic on the street but stated that changes can be made to the street to alter traffic flow if that is desired. If residents want speed bumps or other measures then that is an issue between the Trustees and residents over the street design. The Planning Board previously looked at the traffic issue and the site plan includes no left turn signs to reduce commercial traffic on the residential end of the street.

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Chase Bank, 31 State Street ~ Landscaping and parking lot renovations

Present: Michael Ward, Contractor; Laurence Davies, property manager.

Discussion: Chairperson Vlietstra stated that there is an open hearing for an application for parking lot and façade restoration at 31 State Street, Chase Bank.

Mr. Ward stated that he had submitted a revised landscape plan for board members to review. He indicated that he had worked with Landscape Architect, Mary Scipioni, to submit stamped landscaped plans. Member Vlietstra stated that his understanding of the current plan is that the dogwood trees in the front of the property and the street trees along South St. will remain. Mr. Ward stated that one of the existing trees in the middle of the parking lot is 40 feet high and is deteriorating, and he expressed concern that it could fall on a building during a storm. Member Vlietstra expressed his approval of having mature trees in urban lots and stated that he prefers to maintain the existing trees. He also expressed approval of the plan to convert asphalt to landscaping. Mr. Ward stated that the landscape plan conforms to Village Code, and will increase the amount of landscaping at the site.

Member Vlietstra said that the Village Engineer had reviewed the site plan and had commented that the proposed new footer drains along the building foundation may not be necessary if soil has adequate drainage properties. The applicant explained that there has been water infiltration into the building that has caused damage in the building. They are proposing weatherproofing on the exterior to prevent more

damage. Member Vlietstra stated that gutters would be beneficial to improve this situation. The Village's Engineer had some concerns about the drainage: the elevation of the new drainage pipes are and how they relate to the existing stormwater pipes. It additionally looks like they will be expanding the amount of water that will be going into the Village stormwater system; it is preferred that storm water be disposed onsite when possible and not add more water to the Village stormwater system. He stated that the Board will request that the Village Engineer further review the drainage, and the applicants will be required to provide a deposit for the Engineer's fees.

The proposal includes removing and replacing the arched entrance and south façade brick and rebuilding a new arched entrance to match existing. Areas of the building will be repointed and replaced. The applicants are working on finding appropriate matching brick. The brick from the monument signs will be used to replace the brick on the building. The monument signs will be reconstructed with new brick that matches the brick in the building as much as possible.

Member Vlietstra asked about the changes to the arched entrance doors and whether they will alter the appearance. The applicant stated that the changes are maintenance to correct water runoff and waterproofing and will not alter the appearance.

Member Vlietstra stated that Village Code requires that a lighting plan be submitted as a condition of site plan approval. The applicants stated that they are not proposing any changes to the lighting. Mr. Vlietstra stated that they have previously had their lighting plan reviewed by the Planning Board so there should be an existing plan they can submit. He further stated that a resident has expressed a concern about light spillage from Chase Bank onto neighboring residential properties and there is a light post close to the property line. Chairperson Vlietstra pointed out that state laws require bank's ATM machines to have a certain level of illumination near the ATM, so lighting requirements differ from other businesses. However, they cannot have light spill onto adjacent properties. He stated that the property is adjacent to residential properties and just a few feet from residential structures. The applicants stated that lights will be either shielded or adjusted so as to reduce spillage to residential areas if that is a problem. Additionally they may be replacing the bulbs in the future with new LED bulbs to save energy and that may change the list distribution pattern; they prefer to address light shielding when the new bulbs go in so that it works with the new distribution pattern. Shielding lights now doesn't make a lot of sense if it will change in the future. Board members suggested that it makes sense to review the lighting changes now since we are already reviewing site plans. The applicant stated they will look to see if bulb replacement is planned for this site in the near future.

Board members asked the applicants about handicapped parking. They currently have one handicap space, and based on the number of parking spaces at the site, they are required to have two. The applicants agreed to add another handicap space.

Member Vlietstra questioned the applicants as to whether they would consider narrowing the driveway apron at the Monroe Avenue exit to match the landscaping. Ms. Cline will review whether there are state requirements for the width of the driveway. Mr. Vlietstra also asked whether the applicants have sought APRB approval for changes to the building entrances. Ms. Cline explained that since the work is only repair to the existing entrances, they do not require APRB approval.

Member Vlietstra summarized the issues that are still open with regard to site plan approval:

- Engineer's review of the drainage;

- Sample of the brick that will be used;
- Set of drawings that includes most recent landscaping plans; and
- Lighting plan and a timeframe for changing LED lights.

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to leave the public hearing open to be continued at the 5/17/17 Planning Board meeting.

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

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**David & Tina Mattia, 44 Sutherland Street ~ Site Plan**

**Present:** Jon Schick, Architect; Betsy Brugg, Woods, Oviatt & Gilman, LLC

**Discussion:** This is an application for site plan review for demolition of an existing house and construction of a new house at 44 Sutherland Street.

Chairperson Vlietstra asked the Building Inspector for an update regarding the driveway at the site. Ms. Cline stated that if they intend only to resurface the existing driveway, as is, it is considered a repair and is a maintenance issue. If they propose to expand the existing driveway, that section of the driveway has to comply with the weight limitations for fire apparatus.

Chairperson Vlietstra questioned the applicant regarding the drainage updates based on the Village Engineer's report. Mr. Schick stated that a shallow pit percolation test was performed at the discharge of the French drain on the south property line, and it measured 1.9 gallons per hour per square foot. The Engineer recommended that they perform a deep pit percolation test at some point. Mr. Vlietstra commented that he spoke to the Village Engineer and based on the testimony before the board it sounds like the soil in the area drains very well. Member Bove stated that he is satisfied with the Engineer's report and drainage test. Member Vlietstra agreed, they heard the neighbor's observations of good soil drainage, heard from the Engineer about the lack of ponding on the property after recent rains, and the results of this test were good according to the Village's Engineer. He sees no reason to conduct any further tests.

Member Vlietstra stated that the landscape architect's report commented on the slope away from the house; the placement of the French drain; damage to the root systems of the trees; and concerns regarding the amount of soil excavating and hydrology changes and how it will affect trees in the area.

Mr. Schick stated that on the north side of the property, they have shortened the retaining wall by 8 feet in order to move the retaining wall further away from the tree. The neighbor to the north has a Norway Maple tree which will be greatly impacted by the construction. The landscape architect determined that this is a hardy tree which could survive the construction. She also stated that this is a tree that could cause problems in the future, and she recommended that it be removed. The homeowners approached the neighbors regarding the tree, and they do not want to cut down the tree. The tree will remain, but they will relocate the wall further away from it to reduce impacts.

Ms. Zoghlin stated that at the last meeting, the board classified the action as a Type I SEQR action. The board secretary confirmed that notices were sent out to interested agencies, and no responses have been received as yet. The next thing the board needs to do is to make a determination of environmental significance. The applicants have completed Part I of the SEQR form where they have identified possible environmental issues that could arise in connection with the proposed action. The lead agency's job is to fill

out Part II, Environmental Assessment Form, for determination of environmental significance and decide whether the proposed action has the potential for at least one potentially significant adverse environmental impact. If they find an instance where the action will have a significant adverse environmental impact, the board will make a positive declaration of environmental significance. If the Board finds that there are no potential significant environmental impacts, the board will issue a negative declaration of environmental significance, and the SEQR process is completed. If a positive declaration is issued, then the applicant will be required to prepare an Environmental Impact Statement. Member Vlietstra explained that the Planning Board will be reviewing the impact that the demolition and new construction will have on the community and other adjacent properties.

Ms. Brugg stated that she disagrees with the classification of the action as a Type I action. She asked which agencies were identified as interested agencies, and was given a list of the agencies. She asked whether the applicant has provided all documents related to the environmental impacts that the Board has requested. Member Vlietstra stated that they have several outstanding requests for information that are still pending. Archeological resources were identified in their EAF but the Board has no knowledge about them. Ms. Zoghlin pointed out that Mr. Schick's letter, dated April 10, 2017, stated that additional information from SHPO will be provided. Ms. Brugg stated that the Village has communicated multiple times with SHPO and has a formal relationship with this organization. She further stated that this application has been pending for 20 months. Ms. Zoghlin pointed out that this application has been before the Planning Board for only three months, and the board has not had contact with the APRB or SHPO regarding this issue. She stated that the applicant has the duty to provide the information to the Board.

Member Vlietstra stated that he has not seen any documents from the Health Department or school regarding this project. The house is located directly across from a school and airborne mold/asbestos could be of concern.

Ms. Brugg stated that the APRB denied the application, and she is aware that the Planning Board has some overlapping jurisdiction on the architecture. Ms. Zoghlin stated that one board member had made preliminary comments about the architectural style when the application was being presented for the first time, inquiring what factors led to the selection of the architectural style and asking how it compares to the existing house.

Board members reviewed the Part II portion of the form and identified areas that will require further review to determine what the environmental impacts are. Mr. Schick pointed out that this action may have an impact on the environment, but that the house is uninhabitable and the applicants cannot live in it.

**Motion:** Member Vlietstra made a motion, seconded by Member Bove, to hold a Special Meeting on Monday May 8, 2017, to continue review of this application.

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

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Motion: Member Vlietstra made a motion, seconded by Member Lhota, to approve the March 20, 2017 minutes, as revised.

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

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to adjourn the meeting at 10:00 pm.

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

Linda Habeeb, Recording Secretary