

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
October 27, 2003 – Regular Meeting held on Monday at 7:00 P.M.

PRESENT:

Acting Chairperson: Ted Weniger
Members: Sally Chamberlin
Harold Danko
Linda Lanphear
Excused: Remegia Mitchell
Attorney: John Osborn
Recording Secretary: Anne Z. Hartsig
Building Inspector: Skip Bailey

Chairperson Weniger called the meeting to order at 7:00 P.M.

OLD BUSINESS

Doug Weins, owner – 56 & 60 North Main Street – continuation of public hearing for site plan approval.

Present: Doug Weins

Proposed: To review plans and seek direction for requirements for final site plan approval.

Discussion: Chairperson Weniger explained that this is a continuation of a public hearing for site plan approval for Jojo, a restaurant on North Main Street. A new site plan was submitted and date stamped 10/10/03. Mr. Weins said new lighting and two additional dry wells shown on the plan would be installed. Existing dry wells will be repaired. He reviewed those items on the plan that are complete including the enclosed dumpster area, the enlarged berm, planting of 25 to 30 trees and vetch, reseeding bare spots, and modifying the existing fence to prevent light spillage onto the adjoining property. Items to be completed are the addition of lighting at #9 (northeast corner of parking lot) as shown on the submitted plan. He said if this turned out to be too much light for the Corby property, existing lighting on the building would be removed. In regard to the issue of spillage and shielding, Mr. Bailey said that Mr. Weins would have to submit a photometrics plan before the board could grant final site plan approval. The APRB will have to approve the actual fixtures. Discussion continued regarding landscaping to break up the large expanse of asphalt. Landscaping is needed every twenty parking spaces. A six to ten foot area of landscaping will need to be installed partway along the center row of parking. The suggestion was made to include a front to back island in the center row of parking that would help screen light and view for Corby's and also from the parking lot turn at the corner of JoJo's.

The Board instructed Mr. Weins to return with a final plan that addresses all eight issues listed on correspondence from the Building Inspector dated 9/24/03. The issues are as follows:

1. show dimensions of parking spaces
2. show dimensions of parking spaces overhanging landscaped areas and where curbs or stops are installed
3. show an installed landscaped area every 20 spaces
4. show dimensions of drive aisles which must be 24 feet wide
5. show that interior landscaping is 5% of the paved area with a minimum dimension of 20 square feet and distributed within the facility
6. show one tree per ten parking spaces, including one tree on each landscaped area
7. show curbing/stops at all landscaped areas, particularly on the perimeter
8. show snow storage area and indicate that trucking will be used if necessary.

Chairperson Weniger stated that the Public Hearing would remain open for another month. Mr. Weins will plan to present a final site plan at the November meeting.

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Richard and Melissa Holahan – 38 Rand Place – continuation of Public Hearing for Special Exception Use Permit

Present: Richard and Melissa Holahan

Proposed: Applicants are applying for a Special Exception Use permit to store a recreational vehicle outside of the “parallel to and within 10 feet of the principal structure” as is required by the Village Code.

Discussion: Chairperson Weniger reviewed the history of this application. After the September meeting, the Building Inspector presented ideas and alternatives discussed by the Zoning Board to the Holahans for their consideration. The applicants stated that they had consulted a landscape architect about the option of storing the RV on the north side of the back yard. They determined that this option would be a financial hardship due to grading costs, tree removal costs, installation of gates, and the removal of a relatively new fence. They suggested the option of leaving the RV in its present location with a complete cover over the vehicle. This would also be a costly option but less so than moving the RV to the north side of the back yard.

The secretary read verbatim, a letter received from Todd and Stephanie Craig dated October 27, 2003. The letter expressed the Craigs’ opposition to the storage of this vehicle in its present location. The letter is on file.

Attorney Osborn explained **Chapter 210-6. Nonconforming buildings, structures, lots or uses.** He said this chapter of the Village Code states that non-conforming uses do not have to be permitted to continue indefinitely, unless substantial loss as a result of the enforcement of this chapter can be shown by the property owner. He said that the Board of Appeals is permitted to establish a reasonable temporary reprieve time if they want to do that.

The Board reviewed and discussed Chapter 210-114 B. (2) (a), # [1] – [6]. They determined that if a special exception use were granted 1) it would not comply with all regulations and requirements of the chapter and all other applicable ordinances of the Village, 2) it would not be in harmony with the general purpose and intent of the chapter considering the fact that this is a corner lot, 3) it might depreciate the value of the adjacent property, 4) it would not create a hazard to health, safety or general welfare, 5) it would not be detrimental to the flow of traffic in the area and 6) it could impact the essential character of the neighborhood.

The Board then reviewed Chapter 150-3 I. They considered the terrain of the applicant’s property, the surrounding neighborhood conditions and the effect on adjacent properties if the RV were to be parked in the applicant’s property.

Pat Anderson, 1 Village Grove: Ms. Anderson asked what a special use permit is for. It was explained that the granting of a special use permit would allow the applicant a way to park their RV in their yard even though they are in violation of a portion of the code.

There being no one further to speak for or against this application, Chairperson Weniger closed the Public Hearing.

A **motion** was made **by Member Chamberlin, seconded by Member Lanphear** to deny this application for a Special Exception Use permit at 38 Rand Place for the purpose of parking and storing a RV.

Vote: Weniger – yes, Danko - yes, Chamberlin – yes, Lanphear - yes. **Motion carried.**

Findings of Fact

1. The option of covering the RV does not help the situation and may in fact draw more attention to the RV.
2. This property is not any more unique than many others in the Village.
3. The applicant stated that the alternative of storing the RV on the north side of the back yard was not feasible.
4. The terrain of the property is such (corner lot) that it cannot be effectively screened from the general visibility of the community

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5. This application is in violation of standards #1, #2, #3, & #6 as listed in the Special Exception Use Chapter 210-114 B. (2) (a).

The decision was filed in the Office of the Village Clerk on October 27, 2003.

ZONING BOARD

1. David Jewett – 44 North Main Street – Temporary Zoning Permit

Present: David Jewett

Proposed: temporary sale of Christmas trees and wreaths during the holiday season at the Pittsford Farms Dairy.

The Secretary read the legal notice that was published in the Brighton-Pittsford Post on October 15, 2003: *“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, October 28, 2002 at 7:30 P.M. to consider an application made by David Jewett for a temporary zoning permit to allow the outside sale of Christmas trees and wreaths from November 20, 2002 to December 26, 2002, at property known as Pittsford Farms Dairy, owned by Charles Corby, and located at 44 North Main Street, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford”*

SEQR: Chairperson Weniger stated this is a Type II Action under SEQR 617.5 #15. No further review is necessary.

Public Hearing Opened: The legal notice having been read, the Chairperson opened the Public Hearing.

Discussion: Mr. Jewett presented a summary of his plans to sell holiday trees and wreaths. All aspects of his proposal to sell trees will be the same as in previous years. The Board reviewed the conditions of approval from the previous year and determined that if the temporary permit were granted the conditions would be the same.

Public Hearing Closed: There being no one further to speak for or against this application, Chairperson Weniger closed the public hearing.

A **motion** was made by **Member Lanphear, seconded by Member Danko** to approve the application submitted and date stamped 9/26/03 for a temporary zoning permit to allow the outside sale of Christmas trees and wreaths at the Pittsford Farms Dairy during the holiday season with the following conditions:

1. the site shall be restored to its original appearance by January 4, 2004,
2. preparation and sale shall be only on private property side yard no closer than 125 feet from all property lines,
3. temporary signage shall not be placed in the public right of way,
4. no high-pressure sodium lighting shall be installed or maintained.

Vote: Weniger – yes, Danko – yes, Chamberlin – yes, Lanphear – yes. **Motion carried.**

The decision was filed in the Office of the Village Clerk on October 27, 2003. Failure to comply with the conditions of approval may result in the revocation of said approval.

2. Anthony Barrese – Pittsford Mobil – 58 Monroe Avenue – area variances to install signs

Present: Anthony Barrese, owner of Pittsford Mobil

Proposed: Due to a product change from Mobil gas to Exxon gas, Mr. Barrese would like to install two gas pump canopy signs in addition to an existing building mounted sign.

The Secretary read the legal notice that was published in the Brighton-Pittsford Post on October 15, 2003: *“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, October 27, 2003 at 7:00 P.M. to consider an application made by Anthony J. Barrese, owner of Pittsford Mobil located at 58 Monroe Avenue, Pittsford, New York, for two area variances to install two gas pump canopy signs in addition to the existing building mounted sign where only one building mounted sign is permitted pursuant to Chapter 168-7A (a), Commercial Signs, of the code of the Village of Pittsford.”*

SEQR: Chairperson Weniger stated this is a Type II Action under SEQR 617.5 #15. No further review is necessary.

Discussion: Mr. Barrese explained that he would be changing gas companies from Mobil to Exxon. As a result, he would like to change the name on the canopies to reflect the new product that he will be marketing. He would like to put red lettering on the canopies. The canopies will not be internally illuminated. These new canopy signs would replace the signs on the building. The freestanding sign is

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permitted and would remain. By law, he would have to keep the NY State inspection sign and price signs on the pumps. He will place a small sign on the window (also permitted) to indicate that he is a convenience store as well as a gas station.

Public Hearing Opened: The legal notice having been read, the Chairperson opened the Public Hearing.

John Watt, 42 Monroe Avenue: Mr. Watt asked if the size of the signs or the number of lights would be changing. Mr. Barrese replied that there would be no change.

Joe Maxey, 5 Sutherland Street: Mr. Maxey called the Village Office on October 16, 2003 to say that he is opposed to more signs at Pittsford Mobil because he feels they already have more than they are allowed. He would also like to see the tow trucks removed from the railroad property.

Public Hearing Closed: There being no one further to speak for or against this application, Chairperson Weniger closed the public hearing.

A **motion** was made by **Chairperson Weniger, seconded by Member Chamberlin** to approve this application submitted and date stamped 9/29/03 for two area variances for two signs consisting of red lettering that contain only the word "Exxon" with the maximum dimensions of the lettering to be 100" x 18" per side. This application is approved with the following conditions:

1. the signs shall not have internal or external lighting
2. all other signs except those required by law shall be removed from the building
3. the existing "convenience" window sign shall be removed and replaced with a small compliant sign
4. The lettering on the existing free standing sign will be changed from Mobil to Exxon
5. All new signs are subject to approval by the Architectural and Preservation Review Board.

Vote: Weniger – yes, Danko – yes, Chamberlin – yes, Lanphear – yes. **Motion carried.**

The decision was filed in the Office of the Village Clerk on October 27, 2003. Failure to comply with the conditions of approval may result in the revocation of said approval.

ZONING APPEAL

1. Wilma and Renard Beaty – 17 West Jefferson Road – appeal APRB fence decision

Present: Wilma Beaty

Proposed: Mrs. Beaty explained that she is appealing the decision of the APRB made at a special meeting held on 9/23/03 denying her application for a fence project.

The Secretary read the legal notice that was published in the Brighton-Pittsford Post on October 15, 2003: *"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, October 27, 2003 at 7:00 P.M. to consider an appeal pursuant to Chapter 210-65 made by Wilma and Renard Beaty from a decision of the Architectural Preservation Review Board made on September 23, 2003, which decision denied Mr. and Mrs. Beaty's application for a Certificate of Approval to permit the installation of a six foot, black, vinyl-coated fence at their home located at 17 West Jefferson Road, Pittsford, New York."*

SEQR: Chairperson Weniger stated this is a Type II Action under SEQR 617.5 #31. No further review is necessary.

Discussion: Chairperson Weniger explained that it was the charge of the Zoning Board to reverse, affirm or modify and affirm the decision made by the APRB after reviewing the facts of the decision. They must determine if the action of the APRB was reasonable according to their authority and standards.

Mrs. Beaty explained the process she followed regarding the installation of a fence around the perimeter of her rear yard. A building permit was issued for those portions of the fence not visible from a public way. Mrs. Beaty was instructed that APRB approval was needed for portions that were visible. The allowable portions of the fence were constructed according to the Building Inspector's instructions and inspection. Mrs. Beaty attended the 9/8/03 APRB meeting for approval of the visible portions of the fence. No decision was made. There was a special APRB meeting on 9/23/03 whereby the application was denied. In addition, at this meeting, the APRB voted that the entire fencing project including those portions that were approved by the Building Inspector was inappropriate. Mrs. Beaty stated that one reason for the installation of a six-foot fence was for liability protection. There is a pool in the rear yard and the existing split rail fence was non-compliant. Mrs. Beaty stated that a six-foot fence in a backyard is allowable by Village Code. She said the material of the fence is consistent with the age of her home (1953) and those

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homes on Village Grove which are even newer. She believes that the visibility issue is not significant because the fence is only marginally visible.

The Board determined that Village Grove is considered a public way because the Village plows the street. Chairperson Weniger stated that the APRB has jurisdiction over what is visible from a public way and not what is visible from neighboring properties. He also said that fences are considered an exterior architectural feature.

Mr. Bailey said a small portion of the fence (10-15 feet to the north and 20-30 feet to the west) could be seen from Village Grove. He clarified that this is the portion yet to be constructed. The portion of the fence that has been constructed is marginally visible because it is a see-through fence. Mr. Bailey said there are numerous chain link fences in the Village, some installed in the 1930's. He conceded that there are not many that are six-foot high and 700 feet long. He said he issued the permit because in his opinion, he did not feel the fence was visible. When asked if he felt the fence as built now violated the permit, Mr. Bailey indicated it did not.

When asked by Member Lanphear, Mrs. Beaty said she would consider using a different fencing material in those locations that can be seen from the street. However, she said the APRB stated they did not like a transition fence and that two different materials on one fence would be of concern to them.

Public Hearing Opened: The legal notice having been read, the Chairperson opened the Public Hearing. A letter was received from APRB Chairperson Blake Held and read aloud. The letter pertained to the decision made by the APRB. It is on file in the Village Office. A letter was received from Peter J. Siegrist of the Landmark Society of Western New York. Mr. Siegrist examined the fence at the request of the APRB. It is his opinion that the fence is fully compliant with Article 14 of the Village Code. This letter was also read aloud and is on file.

Mike Manjerovic, 6 Village Grove: Mr. Manjerovic asked if the common driveway between 6 & 7 Village Grove is part of the public way. Since the Village does not plow it, it is not part of the public way. Mr. Manjerovic said the fence could be seen on both sides of the Beaty house from Jefferson Road.

Don Anderson, 1 Village Grove: Mr. Anderson asked who Peter Siegrist was. The reply was that he is an expert in preservation and was asked by the APRB to evaluate the fence application. Mr. Anderson also stated that the fence could be seen from Jefferson Road.

Kathryn Hawthorne, 15 East Jefferson Road: Ms. Hawthorne asked where Mr. Siegrist was from. She was told he was Director of Preservation Services at the Landmark Society. Ms. Hawthorne said she did not question the Beaty's right to have a fence but she does object to the material of the fence. Her lot is directly adjacent to the Beaty's lot.

Lois Lent, 2 Village Grove: Mrs. Lent said the back of her property is adjacent to the Beaty property. She presented photos to the Board depicting the views of the fence. She suggested that all portions of the fence should be considered as one entire project. Chairperson Weniger reminded her that the Code says that the Board's purview is only those portions that can be seen from a public way and not what can be seen from neighboring yards. When asked if another material would be preferable, Mrs. Lent said she'd prefer no fence at all but definitely a six-foot fence. Chairperson Weniger stated that a six-foot fence is permissible by Code. Mrs. Lent said she did not see the need for a six-foot fence for the protection of the Beaty children and their dog. She asked if a lower fence had been considered. Ms. Beaty replied that from a liability standpoint regarding her pool, she was more comfortable with a six-foot fence. In addition, a partial six-foot fence was already in existence. Mrs. Lent said she can appreciate the desire for a six-foot fence around the pool area but asked why the rest of the fence couldn't be lower.

Pat Anderson, 1 Village Grove: Ms. Anderson stated that on Village Grove there are two private drives including four houses. She wanted the Zoning Board members to know that the fence impacts so many people. In her opinion as a real estate agent, this fence will lower property values.

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David Lent, 2 Village Grove: Mr. Lent said a neighbor of the Beatys installed a split rail fence. He said that fence enhanced the property and was appropriate. The chain link fence that the Beatys have installed is not appropriate. He invited the Zoning Board to view the fence from his yard at 2 Village Grove.

Letters or email letters were received and read aloud in support of the APRB's decision. These letters were received from Grant Fowler, 10 Village Grove, Don Anderson, 1 Village Grove, Pat Anderson, 1 Village Grove, David Lent, 2 Village Grove. Letters, phone calls or email correspondence in support of the Beaty appeal were received and read aloud from Jean Rapp, 17 West Jefferson Road, David Anderson, 19 West Jefferson Road, Ad Dugan, 12 Green Hill Road, Carol Dugan, 12 Green Hill Road.

Chairperson Weniger said that the Public Hearing would be left open so that the Zoning Board can make a site review. He said the Board would conduct a thorough review as quickly as possible. The issues for the Zoning Board to discuss will be whether the APRB has the right to interpret the Village Code or to revoke a permit that has been issued by the Building Inspector, whether the APRB purview includes only those portions of the fence that are visible from a public way or the entire fence and lastly, whether the APRB has the authority to determine the appropriateness of the fencing material. A special meeting was tentatively scheduled for Friday, November 7th at 8:30 AM. The Board will meet on Village Grove.

MEMBER ITEMS

Joint Community Library meeting with APRB on October 23, 2003

Chairperson Weniger reported on the joint meeting for the presentation on the community library. He made notes from that meeting and will consolidate the notes taken by Secretary Latshaw at that meeting. He will then draft a letter to the Board of Trustees identifying the issues as seen by the Planning and Zoning Board.

Boughton Avenue Driveway: Member Lanphear inquired about a specific stoned section of Ms. Seymour's front yard and the use of that section as a driveway. Mr. Bailey said it is permissible for use as a driveway if it is accessible. He said Ms. Seymour has not used it as a driveway to this point. He will provide Zoning Board members with the proposed code changes regarding driveways.

Thirstys – fiberglass walrus: Member Lanphear reported that there is a large fiberglass walrus on the sidewalk in front of Thirstys on State Street. Mr. Bailey will check on this.

As a matter of interest, Member Lanphear said that two retail establishments at 50 North Main Street would be moving. They are Leah Grace Antiques and Pittsford Wine and Spirits.

MINUTES

September 22, 2003: A **motion** was made by **Member Chamberlin**, seconded by **Member Weniger** to approve these minutes as written.

Vote: Danko – yes, Lanphear – yes, Chamberlin – yes, Weniger – yes. **Motion carried.**

October 1, 2003: A **motion** was made by **Member Danko**, seconded by **Member Weniger** to approve these minutes as written.

Vote: Danko – yes, Lanphear – yes, Chamberlin – abstain, Weniger – yes. **Motion carried.**

ADJOURNMENT

There being no further business, Chairperson Weniger adjourned the meeting at 10:45 PM.

Anne Z. Hartsig, Recording Secretary