

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting - September 27, 2004 at 7:00 P.M.

PRESENT:

Chairperson: Remegia Mitchell
Members: Sally Chamberlin
Linda Lanphear
Ted Weniger
Tom Dannhauser (absent)

Attorney: John Osborn
Building Inspector: Skip Bailey
Recording Secretary: Linda Habeeb

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

Zoning Board

1. Ken Bracker (for owners Mr. & Mrs. Ciulla) - 19 Sutherland St. - Area variances to construct an addition and a deck

Present: Ken Bracker

Mrs. Ciulla

The Secretary read the legal notice that was published in the September 15th edition of the Brighton Pittsford Post: "***Please take notice that a Public Hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, September 27, 2004 at 7:00 P.M. to consider an appeal made by Ken Bracker, as agent for Mr. and Mrs. Ciulla, owner of property located at 19 Sutherland Street, for the following variances: (1) An area variance to construct a two-story addition at the rear of the existing house measuring 8 feet 6 inches by 19 feet 2 inches, an extension of a pre-existing non-conforming structure on a pre-existing non-conforming lot, said structure having a front setback of 34.90 feet where a front setback of 70 feet is required, and side setbacks of 14.07 feet and 14.23 feet where side setbacks of 15 feet are required; and said lot having an area of 9,900 square feet where an area of 17,500 feet is required, a width of 66 feet where a width of 100 feet is required, and a depth of 150 feet where a depth of 175 feet is required in the R-1 Residential District, all pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of non-conforming buildings, structures, lots or uses, and (2) an area variance to construct a deck having a side setback of 9.23 feet where a side setback of 15 feet is required in the R-1 Residential District, pursuant to Chapter 210-9C of the Code of the Village of Pittsford.***"

SEQR: Chairperson Mitchell stated this is a Type II Action under SEQR 617.5 #12 and 13. No further review is required.

Discussion: The applicant is requesting an area variance for the building of an addition and a deck. The applicant stated that the house was built in 1936 or 1937, and that it has a small kitchen, bedrooms, and garage.

The proposal calls for the addition to be built on the rear of the residence, and the deck would be at the rear and South side of the property. The deck in the rear would cover the existing stone patio.

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

The following people spoke:

Ron Johnson, 21 Sutherland St. - Objects to encroachment of the deck, and would like to maintain current side setback of 14 feet. He also objects to the potential removal of the tree behind the residence.

Pete Crooker, 15 Sutherland St. - Objects to proposed side setback.

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

Findings of Fact:

- 1. The modified setback, as approved in the motion, will have a minimal visual impact.**
2. There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
3. The requested variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.
- 5. The alleged difficulty is, in part, self-created, but does not preclude the granting of this variance.**

Motion: A motion was made by Chairperson Mitchell, seconded by Member Chamberlin, to approve the area variance to construct a 2-story addition, as submitted on 8/31/04; and to approve the construction of a deck with a side setback of 14.23, or not to exceed the existing side setback, with the condition that under no circumstances will there be a roof or awning over the deck.

Vote: Mitchell – yes, Chamberlin – yes, Weniger - yes.

Motion carried. (Member Lanphear was not present for the vote.)

The decision was filed in the Office of the Village Clerk on September 27, 2004.

2. Shannon Hookway – 32 South Main St. – Special Exception Use

Present: Dan Buccieri

The Secretary read the legal notice that was published in the September 15th edition of the Brighton Pittsford Post: “***Please take notice that a Public Hearing will be held before the Village of Pittsford Zoning Board of Appeals on Monday, September 27, 2004 at 7:00 P.M. at the Pittsford Village Hall, 21 North Main Street, Pittsford, NY to consider an application made by Shannon Hookway for a special exception use permit for instructional use (art instruction) of property located at 32½ S. Main Street, pursuant to Chapter 210-26A(23) of the Code of the Village of Pittsford.***”

SEQR: Chairperson Mitchell stated this is a Type II Action under SEQR 617.45 #15 and 20. No further review is required.

Discussion: The applicant is proposing using the property to open an artist's studio for the purpose of working, teaching, and showcasing art. She is proposing conducting youth art classes that would be held 3 or 4 times each week between the hours of 12 PM and 6 PM, with 10-12 students per class. She is also proposing conducting various adult art instruction classes on Thursday evenings. The area is approximately 900 sq. ft. and consists of two rooms and a bathroom and storage room. There is currently no space for customer parking. The parking is offstreet, and the applicant suggests that many parents would be dropping off and picking up their children for classes and would not require parking spaces at the facility. The total proposed class time is 6 hours 45 minutes per week.

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

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

Findings of Fact:

1. Taking into account the location and size of the use, and the nature and intensity of the proposed operations, this use complements the Historic Business District.
2. This use will not create a hazard to health, safety, or the general welfare.
3. The flow of traffic in the vicinity will not be impaired by this minimal use.
4. **This use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.**
5. **This application meets the Comprehensive Plan's directive for creating a new balance of uses and services to the Historic Retail Business District.**

Motion: A motion was made by Chairperson Mitchell, seconded by Member Weniger, to approve the application for a special exception use for an instructional facility as presented.

Vote: Mitchell – yes, Chamberlin – yes, Weniger - yes.

Motion carried. (Member Lanphear was not present for the vote.)

The decision was filed in the Office of the Village Clerk on September 27, 2004.

3. Paul Zachman – 14 Stonegate Lane – Area variance to construct a deck

Present: Paul Zachman

The Secretary read the legal notice that was published in the September 15th edition of the Brighton Pittsford Post: ***“Please take notice that a Public Hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, September 27, 2004 at 7:00 P.M. to consider an appeal made by Paul Zachman, agent for David and Susan Spector, owners of property located at 14 Stonegate Lane, for the following variance: An area variance to construct a deck and gazebo with a rear setback of 30 feet where a rear setback of 35 feet is required in the R-1 Residential District, pursuant to Chapter 210-9D of the Code of the Village of Pittsford.”***

SEQR: Chairperson Mitchell stated this is a Type II Action under SEQR 617.5 #12 and 13. No further review is required.

Discussion: The applicant presented a revised application for a deck. The original application was for a deck and gazebo, and the revised application omits the gazebo. The proposed plan calls for a 30-foot setback, and the required setback is 35 feet, resulting in a 5-foot encroachment. The lower deck is within the 30-inch elevation limit for railings, and therefore will not require installation of railings.

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

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

Findings of Fact:

- 1. There is minimal visual impact from these changes.**
2. There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
3. The requested variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.

Motion: A motion was made by Member Weniger, seconded by Chairperson Mitchell, to approve the amended plan, submitted on 9/27/04.

Vote: Mitchell – yes, Chamberlin – yes, Weniger - yes.

Motion carried. (Member Lanphear was not present for the vote.)

The decision was filed in the Office of the Village Clerk on September 27, 2004.

4. Cynthia Seymour – 6 Boughton Ave – Driveway

Present: Cynthia Seymour

Samuel Ianacone, Esq.

The Secretary read the legal notice that was published in the September 15th edition of the Brighton Pittsford Post: “Please take notice that a Public Hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, September 27, 2004 at 7:00 P.M. to consider an appeal pursuant to Chapter 210-114(B)(1) made by Cynthia Seymour from a decision rendered by the Building Inspector on March 15, 2004, which decision denied a driveway arrangement consisting of two driveways at 6 Boughton Avenue which is not permitted pursuant to Chapter 210-16A and 210-16C of the Code of the Village of Pittsford.”

SEQR: Chairperson Mitchell stated this is a Type II Action under SEQR 617.5 #20 and 31. No further review is required.

Discussion: This is an appeal from a decision rendered by the Building Inspector which denied a driveway arrangement consisting of two driveways on the residence at 6 Boughton Avenue which is not permitted pursuant to the Village Code. Mr Ianacone stated that the main issue to be determined

is whether one or two driveways were constructed on the property. He maintained that the driveway is a single, uninterrupted driveway, and therefore, parking cars in front of the residence is permitted by the Village Code. He further stated that there is nothing in the Code to indicate that a driveway can intersect the street only at one point. An arch-shaped driveway at the residence intersects the street at two points, and the Building Inspector stated that two curb cuts constitutes two driveways. The applicant stated that overnight offstreet parking is necessary for snow removal from November 1 through April 15, and further stated that the stone driveway spur on the South property line will be removed after this appeal has been resolved. Mr. Ianacone stated that since the property is a legal double, used as rental property, the owner needs to supply adequate parking for her tenants, and that she would suffer economic hardship if she were denied the opportunity to use the driveway in the current manner. He further stated that they had canvassed the surrounding neighbors, and presented a petition signed by 19 neighbors stating that they had no objection to the driveway.

Member Lanphear questioned whether there had been a change in circumstances since the original denial. She further stated that additional stone had been added to the driveway in the last six months.

Chairperson Mitchell questioned whether or not a change in the offstreet parking regulations would improve the situation.

Public Hearing Opened:

The following people spoke:

Jack & Marilyn Cargill, 8 Boughton Avenue, spoke in support of Ms. Seymour, and stated that the driveway is unsightly as it currently exists and will negatively affect the property value of the surrounding residences if the situation is not resolved. Additionally, they stated a concern that the slope of this property will cause precipitation run-off on the South boundary if a paved driveway is installed in that area instead of the arched front yard drive. Mr. Cargill further stated that he is grateful the driveway is not along the South property line, since this would cause drainage problems due to the slope of the land.

Paula Sherwood, 23 Boughton Avenue, suggested that a possible solution to the situation would be to extend the driveway along the South side to the rear of the property. Ms. Sherwood also stated that the view of Ms. Seymour's attractive residence is obscured by large vehicles parked in front of her house.

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

The Board decided to delay making a final decision pending the recommendation of the Village Attorney.

Planning Board

1. Pontillo's Pizza – 10 State St – Review: Special Exception Use Permit

Present: Don and Christine Woodring

The Woodrings are requesting a Special Use Permit to operate Pontillo's Pizza in the former Montana Mills store at 20 State Street.

They have indicated the following:

- The hours of operation will be: 11 AM – 10 PM Monday – Thursday
11 AM – 12 Midnight – Friday and Saturday
12 Noon – 10 PM - Sunday
- The maximum number of employees will be 5.
- The exterior changes are limited to: improved landscaping on State Street, and the addition of a rear delivery exit door and possible addition of roof mechanicals.
- Dumpsters behind 20 State Street are to be enclosed as part of the Library Plan.
- The maximum number of tables will be 4 and the maximum number of seats is 20. This includes chairs for patrons awaiting pick-up orders.
- Pontillo's currently relies on Town trash barrels for pedestrian take-out.
- Delivery vehicles range from 1-3 at any given time, generally: 1 during the day, 2 from 5-8 PM, and occasionally, 3 vehicles.

The Planning Board believes that this is a good use for the building, and that ingress and egress will be safer than at Pontillo's current space, due to the number of driveways planned for the Library project.

There are some unresolved questions regarding parking. As part of the Town Library Plan, it is unclear how many parking spaces are identified for use by Jerry Clifford's tenants, Thirsty's, Pontillo's, and the former Montana Mills. The Town should clarify this number to enable this and future applications to be processed without questions.

The Town intends to identify some spaces as "10 minute" parking. This Board suggested that some of these spaces should be located near 20 State Street to permit quick turnaround for pick-up and delivery vehicles.

There are four issues that should be specifically addressed:

- 1) Parking spaces; total number and identification of short-term spaces
- 2) Enclosure of dumpsters
- 3) Landscaping
- 4) Trash barrels for pedestrian take-out use.

The Board will send their recommendations to the Board of Trustees.

Member Items:

Minutes:

August 23, 2004 - Regular Meeting

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the minutes as written.

Vote: Lanphear- yes, Mitchell-yes, Chamberlin-yes, Weniger – yes

Motion Carried.

St. Paul's Church: Chairperson Mitchell stated that St. Paul's Church expressed a willingness to change their previously approved application to include a landscaping plan for the parking area.

Towpath: Member Lanphear stated that the Towpath Bike Shop was not in compliance with their approved plan, in that the landscaping has not been completed, that both the door on the street side and the porch entrance are accessible to customers, and bicycles are being displayed outside, in violation of the approved application. Chairperson Mitchell added that the handicap parking issue needed to be addressed. Mr. Bailey stated that they had been cited for all of these violations.

Ensenats: Chairperson Mitchell stated that since Ensenats has gone out of business, their Special Use Permit is no longer valid.

Jef Mason: The Board discussed concerns with changes from the original site plan, including that a patio has been installed without approval, and the drainage plan is incomplete.

There was further discussion of possible solutions to the problem of noncompliance of some applicants. Chairperson Mitchell stated that it is a gradual process of noncompliance, which may require an initial conversation with the applicant, followed with letters and phone calls. She further suggested that the process could be started early, before the issuance of an appearance ticket. Member Lanphear stated that if a business does not comply, their Certificate of Occupancy should be revoked. Member Weniger suggested that there be a time limit on the C of O, and that the business cannot operate without first complying with the approved plan. Mr. Osborn stated that the noncompliant applicants should be given ample warning, with letters, calls, visits, etc., before being issued an appearance ticket. He also suggested making the approval of site plans conditional on compliance with the plan within a specified time. It was suggested that preliminary approval could be given, in order to allow a business to move forward, without allowing final approval until the Building Inspector reviews the business and states that the applicant is in full compliance. The Board wants to assist applicants in the process of complying with their plans.

It was agreed that a joint meeting with the Board of Trustees would be held to discuss these issues.

Minutes: August 23, 2004 – Regular Meeting

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the minutes as written.

Vote: Mitchell-yes, Chamberlin-yes, Weniger - yes.

Motion Carried.

Adjournment: **There being no further business, Chairperson Mitchell adjourned the meeting at 10:00 PM.**

Linda Habeeb, Recording Secretary