

**Village of Pittsford**  
**PLANNING and ZONING BOARD OF APPEALS**  
**Regular Meeting – October 25, 2004 at 7:00 P.M.**

**PRESENT:**

**Chairperson:** Remegia Mitchell  
**Members:** Sally Chamberlin  
Linda Lanphear  
Ted Weniger  
Tom Dannhauser

**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. David Jewett - 44 N. Main St – Temporary Zoning Permit**

**Present: David Jewett**

The Secretary read the legal notice that was published in the October 13<sup>th</sup> 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, October 25, 2004 at 7:00 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, 2004 to January 1, 2005, at property known as Pittsford Farms Dairy, owned by Charles Corby, and located at 44 North Main Street, pursuant to Chapter 210-114B(4), Temporary permits, of the Code of the Village of Pittsford.”***

**SEQR:** Chairperson Mitchell stated that this is a Type II Action under SEQR 617.5 #15. No further review is required.

**Discussion:** This is an application for a temporary zoning permit for the outside sale of Christmas trees and wreaths from November 20, 2004 to December 30, 2004, at the property known as Pittsford Farms Dairy. The applicant stated that this would be his 9<sup>th</sup> year at this location, and the same conditions would apply as was agreed to in past approvals. There will be a temporary sign, which would be taken in at night.

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

There was one letter sent in support of the proposal.

**Motion:** Member Lanphear made a motion, seconded by Member Chamberlin, to approve the application for a special zoning permit for the outside sale of Christmas trees.

**Vote:** Lanphear - yes; Mitchell – yes, Chamberlin – yes; Dannhauser – yes; Weniger - yes.

**Motion carried.**

**The decision was filed in the Office of the Village Clerk on October 25, 2004.**

**2. Marianne Seehafer - 2 Courtenay Circle – Special Exception Use**  
**Present: Sandy Seehafer-Dziok**

The Secretary read the legal notice that was published in the September 15<sup>th</sup> 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, October 25, 2004 at 7:00 P.M. to consider an application made by Marian Seehafer, of 2 Courtenay Circle, Pittsford, New York, for a special exception use to store a recreational vehicle partially in the side yard instead of the rear, pursuant to Chapter 150-3D(1) of the Code of the Village of Pittsford..”***

**SEQR:** Chairperson Mitchell stated that this is a Type II Action under SEQR 617.5 # 15 & 20. No further review is required.

**Present:** Sandy Seehafer-Dziok

**Discussion:** The applicant is requesting a special exception use permit to park her trailer on the side of the residence for six months of the year. The trailer is currently parked in back of the residence, but there is not enough clearance for both the truck and the trailer. The applicant stated that she has purchased a cover for the trailer.

Chairperson Mitchell suggested planting landscaping along the side for the purpose of screening the vehicle from view. Member Weniger questioned why the applicant states that she would be required to tar the gravel in the rear of the residence if the vehicle is parked in back, but not required to tar the gravel on the side if it were parked on the side. Member Lanphear raised the issue that if, for some reason, the applicant was not able to leave the area for the other six months of the year, then the vehicle would be stored on the side of the residence and visible year-round.

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

The following person spoke:

**Ed Hollenbeck, 15 Courtenay Circle,** stated his concerns:

- (1) The unsightly view of the large vehicle from Heatherhurst St. and
- (2) The vehicle is an illegally-registered vehicle

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

The Board does not want to set a precedent by allowing a vehicle of this size to be located in a highly visible area.

**Motion:** A motion was made by Member Weniger, seconded by Member Lanphear, to deny the request for a Special Exception Use to park the trailer on the side of the residence.

**Vote:** Lanphear – yes, Mitchell – no, Chamberlin – yes, Dannhauser – yes, Weniger - yes.

**Motion carried.**

**The decision was filed in the Office of the Village Clerk on October 25, 2004.**

### 3. James & Barbara Lehman – 78 N. Main St – Area variance

**Present:** James & Sarah Johnson  
Barbara Lehman

**The Secretary read the legal notice that was published in the September 15<sup>th</sup> 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, October 25, 2004 at 7:00 P.M. to consider an appeal made by James & Barbara Lehman, owner of property located at 78 N. Main St. for the following variances: An area variance to expand a non-conforming structure, said structure having a front setback of 19.2 feet where a front setback of 30 feet is required in the R-2 Residential District, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of non-conforming buildings, structures, lots, or uses; and an area variance to construct a front porch creating a front setback of 13.2 feet where a front setback of 30 feet is required in the R-2 Residential District, pursuant to Chapter 210-12B of the Code of the Village of Pittsford: Dimensional requirements*

**SEQR:** Chairperson Mitchell stated that this is a Type II Action under SEQR 617.5 #9, 12, & 13. No further review is required.

**Present:** Sarah Johnson & James Johnson  
Barbara Lehman (owner)

**Discussion:** The applicants are proposing a complete remodeling of the interior first and second floors of the 1825 residence, including replacing the existing concrete stairs with a covered porch. Railings will also be installed, as required by the Village Code, because of the height of the porch. The requested front variance does not include the stairs. The Board members questioned whether the applicants had discovered any evidence of the structure’s having had a porch in the past. The applicants stated that they had found no evidence of a porch on the residence. The applicants further stated that they had made some changes to their proposal based on comments from the APRB: they had flattened the roof and simplified the columns, based on the architectural advisor’s suggestions, in order to bring the residence more in the character of the original style.

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

The following people spoke:

**Fran & Herbert Kramer, 17 Golf Ave,** asked the applicants if there was any evidence that the residence had previously had a porch, and the applicant stated that there was not.

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

Findings of Fact:

- **Other houses on this street have front porches.**
- There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
- The requested variance is not substantial.
- The proposed variance will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the application, as submitted.

**Vote:** Lanphear - yes; Mitchell - yes, Chamberlin - yes, Dannhauser - yes; Weniger - yes.

**Motion carried. The decision was filed in the Office of the Village Clerk on October 25, 2004.**

#### **4. Del Monte Lodge – 43 N. Main St. - Area variance & minor site plan approval**

**Present:** John Del Monte

The Secretary read the legal notice that was published in the September 15<sup>th</sup> edition of the Brighton Pittsford Post: “***Please take notice that a Public Hearing will be held before the Village of Pittsford Planning & Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, October 25, 2004 at 7:00 P.M. to consider an appeal made by Michael Mercier, as agent for E.J. Del Monte, owner of property located at 43 N. Main St. for minor site plan approval, and for the following variance: An area variance to erect a freestanding sign where only a building-mounted sign is permitted for a multiple commercial building, pursuant to Chapter 168-7B of the Code of the Village of Pittsford.***”

**SEQR:** Chairperson Mitchell stated that this is a Type II Action under SEQR 617.5 # 13, 15, & 19. No further review is required.

#### **Discussion:**

**Sign:** The applicant is requesting an area variance to erect a free-standing sign where only a building-mounted sign is permitted, and permission to use the proposed lighting, fence, and sign at the Spa at the Del Monte Lodge. The proposed sign is a two-sided sign, with a brick base and an overall dimension of approximately 100.5” in width and 84.5” in height. The applicant stated that the sign will be installed approximately 3 feet back from the sidewalk, and that it conforms with other signs in surrounding businesses. The proposed sign will have two lights on the top. Chairperson Mitchell asked the applicant to explain the reason that this sign was proposed to be larger than the Erie Grill sign. The applicant replied that the sign was similar to signs on surrounding businesses, and that this sign was suitable to the APRB.

**Light:** The applicant proposes the installation of wall sconces in five locations. The proposed lights are the same style as the existing lights on the building. The design of the lamp has been approved by the APRB subject to Planning Board approval. The proposed lights will be placed near the entryway and are intended to light the walkway. The applicant stated that the lights have a very low wattage, and that there will be no impact on the residential area from the lights. He submitted a photograph and details of the proposed light.

**Fence:** The applicant proposes installation of a 150-foot, black fence, in the same style as the existing fence along the canal. The applicant stated that the bank on the North property line is eroded from traffic cutting through his property, and the fence is for the purpose of controlling the traffic. Chairperson Mitchell asked the applicant whether he could start the fence at the point where the parking spaces start. The applicant stated that his intention is to discourage foot traffic from cutting through his property. Member Weniger raised the issue of the fence possibly creating a crevice that could collect leaves and garbage, but the applicant stated that he would not allow debris to collect in the crevice.

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

**Motion:** Chairperson Mitchell made a motion, seconded by Member Weniger, to approve the building-hung lights, as submitted.

**Vote:** Lanphear - yes; Mitchell – yes, Chamberlin – yes, Dannhauser – yes; Weniger - yes..

**Motion carried. The decision was filed in the Office of the Village Clerk on October 25, 2004.**

**Motion:** Chairperson Mitchell made a motion, seconded by Member Lanphear, to reopen the public hearing for the sign and fence portions of the application.

**Vote:** Lanphear - yes; Mitchell – yes, Chamberlin – yes, Weniger - yes.

**Motion carried. The decision was filed in the Office of the Village Clerk on October 25, 2004.**

The Board agreed to schedule a site visit to discuss the sign and fence.

## **5. Mitchell Pierson – 10 South St – Area variance**

**Present:** Trip Pierson

The Secretary read the legal notice that was published in the October 13<sup>th</sup> 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, October 25, 2004 at 7:00 P.M. to consider an appeal made by Mr. & Mrs. Pierson, owner of property located at 10 South St. for the following variances: An area variance to extend a non-conforming structure on a non-conforming lot, said structure having a front setback of 19.4 feet where 25 feet is required, and having a side setback of 4 feet where 10 feet is required; and said lot having an average depth of 89.67 feet where 120 feet is required, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of non-conforming buildings, structures, lots, or uses; and an area variance to construct an addition and porch with a front setback of 23 feet 4 inches where a front setback of 25 feet is required, pursuant to Chapter 210-15B of the Code of the Village of Pittsford: Dimensional requirements in the R-3 Residential District; and an area variance to construct an addition with a rear setback of 18 feet 3 inches where a rear setback of 25 feet is required, pursuant to Chapter 210-15D of the Code of the Village of Pittsford: Dimensional requirements in the R-3 Residential District.*

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

**Discussion:** The applicant is requesting an area variance to construct a one-story addition. He proposes to maintain the original portion of the house. The proposed front setback for the porch is 23 feet 4 inches, where 25 feet is required; the proposed side setback is 4 feet, where 10 is required; and the proposed rear setback is 18 feet 3 inches where 25 feet is required.

**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:

- **There is minimal visual impact from these changes.**
- There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.

- The requested variance is not substantial.
- The proposed variance will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.
- The difficulty is, in part, not self-created as this is a pre-existing non-conforming lot and structure.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the application for an area variance, as submitted.

**Vote:** Lanphear - yes; Mitchell - yes; Chamberlin - yes; Dannhauser - yes; Weniger - yes.

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

## **6. Mario Arena – 26 Eastview Terrace – Area variance**

**Present:** Mario Arena

The Secretary read the legal notice that was published in the October 13<sup>th</sup> 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, October 25, 2004 at 7:00 P.M. to consider an appeal made by Nancy Arena, owner of property located at 26 Eastview Terrace, for the following variances: An area variance to construct a breezeway addition, an expansion of a non-conforming structure on a non-conforming lot, said structure having a front setback of 25.7 feet where 30 feet is required, and said lot having an area of 8,125 square feet where 10,500 square feet is required, a lot width of 65 feet where 70 feet is required, and a lot depth of 124.98 feet where 150 feet is required, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of non-conforming buildings, structures, lots, or uses; and an area variance to create a side setback of 2.7 feet where a side setback of 10 feet is required in the R-2 Residential District, pursuant to Chapter 210-12C of the Code of the Village of Pittsford: Dimensional requirements*

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

**Discussion:** The applicant is requesting an area variance to construct a breezeway addition, connecting the existing house to the existing garage. The Board members noted that the Village Code requires a different setback from an attached garage than from a detached garage. The distance from the lot line is not changing. The Board informed the applicant that he would need approval from the APRB.

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

The following person spoke:

**Tim Galli, 34 Eastview Terrace,** stated that he approves of the project, and that it would enhance the safety of the property because there would no longer be a build-up of ice.

There was one letter in support of the variance.

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

Findings of Fact:

- **There is minimal visual impact from these changes.**
- There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
- The proposed variance will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.
- The difficulty is, in part, not self-created as this is a pre-existing non-conforming lot and structure.

**Motion:** A motion was made by Member Dannhauser, seconded by Chairperson Mitchell, to approve the area variance to construct a breezeway addition at 26 Eastview Terrace, as submitted.

**Vote:** Lanphear – yes, Mitchell – yes, Chamberlin – yes, Dannhauser – yes; Weniger - yes.

**Motion carried. The decision was filed in the Office of the Village Clerk on October 25, 2004.**

## **7. Jef Mason – 45 Schoen Place**

**Present:** Jef Mason  
Jim Missel  
Wendy Meagher  
Roger Langer  
Bart Noto

**Discussion:** This is a continuation of an open application for a completed drainage and landscaping plan. The applicants stated that they are proposing constructing a retention pond to intercept drainage on and off the site. The depth of the proposed pond is 3 feet, and it will hold 640 cubic feet of water. They also propose adding landscaping along the front and along the pond. They stated that the reason the pond will perform well is because of the soil, which is pure sand. The arbor, which is merely decorative, will be removed. The two pine trees will be maintained.

Board members expressed concerns about the pond, such as whether it would be a safety hazard for children in the surrounding areas, and the cleaning and possible dampness of the pond. Chairperson Mitchell suggested that landscaping and plantings could substantially reduce the runoff. Also discussed was the area around the creamery, where the land is eroded, and where people congregate, creating an unsightly area. The Board members also questioned the applicant as to why there are six-foot high bollards in the parking lot. The applicant stated that the purpose of the bollards is to block traffic, and that the bollards will have guardrails installed connecting the them.

The Board listed the unresolved issues:

- Completion of a drainage plan
- Completion of the blacktop parking area
- Pavement markings for handicap parking
- Signage for Pedestrian Crossing and No Parking
- Landscaping on West side
- Unapproved construction of paver stone patio

- Absence of lighting plan

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

The following people spoke:

**Roger Powers, 91 Golf Avenue,** Mr. Powers said that the drainage from this property flows into the street and onto his property.

**Jennifer Rube (Bearly Country) – 45 Schoen Place,** stated that during a recent rain storm, there was not enough water to cause a significant drainage problem.

**Muriel Herzog,** merchant at 50 State Street, stated that the Board should have informed Mr. Mason that he was required to supply completed site plans.

Chairperson Mitchell stated that the Board had made repeated requests of Mr. Mason to supply a completed plan. Documentation of these requests is part of the public record.

**Motion:** Member Weniger made a motion, seconded by Chairperson Mitchell to approve the drainage portion only of the drainage and landscape preliminary site plan, submitted to the Board on 10-25-04.

The following items shall be completed by November 30, 2004:

1. all elements of the drainage functions, including, but not limited to, the retention pond and rip-rap channel;
2. blacktop of the parking area and driveway;
3. pavement markings for handicapped parking spaces and striping of two-way driveway;
4. signage for pedestrian crossing and “No Parking”;
5. grading and landscaping on West side of the building, including ground planting, such as grass and evergreen similar to that proposed in the front. Although this landscaping is not shown on the plan, it is a component of the plan as this Board approves it.

All of the above elements are to be completed by November 30, 2004, or the businesses in the building will cease operation.

This approval is conditioned upon:

1. Submission of a final site plan, within 60 days, to include landscaping on the South side of the building.
2. Re-treatment of the pavers to be coordinated with a possible Village sidewalk.
3. Review and approval of car barriers on the East side of the property.
4. Submission and approval of a lighting plan.
5. Review and approval of a comprehensive landscaping plan.

No additional changes are to be made to the site until a completed site plan is approved and no further construction will be made on unapproved elements, including, but not limited to, car barriers and landscaping.

**Member Items:**

**1. Harold Danko, 25 Monroe Ave:** Mr. Danko presented a letter informing the Board of improperly placed political signs on public property in the Village. He supplied a partial listing of areas in which he has observed these signs.

Mr. Osborn stated that political signs are not permitted on public property, and that a citizen is permitted to remove improperly placed signs.

**2. Cynthia Seymour – 6 Boughton Ave – Driveway**

The Board decided to uphold the decision of the Building Inspector who denied the second curb cut, based on the definition of a driveway in NYS Vehicle Traffic Law § 114.

**3. JoJo's - 56 & 60 North Main Street – Site Plan & SEQR**

Chairperson Mitchell stated 2 concerns:

1. The fence in the back on the edge of the Corby property is badly damaged.
2. The planting is not crown vetch, as was previously approved.

Having established the PZBA as the lead agency in the SEQR process, the Board determined that this is a negative declaration per the State Environmental Quality Review.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Weniger, to approve the final site plan for JoJo's Restaurant, as submitted on 8/23/04.

Adjournment: **There being no further business, Chairperson Mitchell adjourned the meeting at 11:30 PM.**

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**Linda Habeeb, Recording Secretary**