

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting – December 12, 2005 at 7:00 P.M.

PRESENT:

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

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

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

Zoning Board

- 1. Mr. & Mrs. Ferris, 27 Monroe Avenue ~ Area variances for an addition**
Present: Mr. & Mrs. Ferris
Jennifer Takatch, Architectura, P.C.

The Secretary read the legal notice that was published in the December 7, 2005 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, December 12, 2005 at 7:00 P.M. to consider an application made by Mr. & Mrs. Ferris, owners of property located at 27 Monroe Avenue, for the following variances: (1) An area variance to expand a nonconforming structure on a nonconforming lot, said structure having a front setback of 26.40 feet where 70 feet is required; and said lot having an area of 16,463 square feet where 17,500 square feet is required, and having a width of 74 feet at the street where 100 feet is required, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Nonconforming buildings, structures, lots or uses; and (2) An area variance to install a paved area of 21.2% of the area of the lot where 12% is permitted, pursuant to Chapter 210-10B of the Code of the Village of Pittsford: Off-street parking.”*

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

Discussion: The applicants stated that they are proposing removing a portion of the rear of the house to accommodate an addition. The Building Inspector stated that the Village Code requires that there be a distance of 10 feet between the house and a detached garage, and therefore, the applicants are also proposing relocating the garage further back on the property. Chairperson Mitchell expressed concern with there being excessive black top next to the garage. The applicants stated that the additional asphalt was necessary for maintaining a clear turn-around area, to prevent drivers from having to back out into busy Monroe Avenue traffic. It was also

pointed out that the area is minimally visible from the street, and there is some landscaping that further screens the area from view.

Public Hearing Opened: Chairperson Mitchell opened the Public Hearing at this time.

There were no letters or phone calls regarding this application.

Public Hearing Closed: Chairperson Mitchell closed the Public Hearing, as there were no other comments, letters, or phone calls regarding this application.

Motion: Member Weniger made a motion, seconded by Chairperson Mitchell, to approve the application for an area variance to expand a nonconforming structure and to approve a variance for the paved area, as submitted.

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear – yes; Weniger - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Findings of Fact:

- ✍ This lot is narrow and deep, with a large portion of vacant land behind the garage.
- ✍ There is a safety concern associated with backing an automobile into Monroe Avenue traffic. The lack of adequate pavement for a turn-around area in the current driveway requires automobiles to back into the street.
- ✍ This addition will not create any further encroachment on the nonconforming front or side setbacks.
- ✍ No undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the variance.
- ✍ The benefit sought by the applicant cannot be achieved by some feasible method other than a variance.
- ✍ The benefit sought by the applicant is not substantial.
- ✍ Although the alleged difficulty may be self-created, this does not alter the Board's reasoning or impact their decision.

2. Arya Tea, 15 South Main Street ~ Special Use Permit
Present: Camilla Schmitt

Discussion: The applicant is applying for a Special Use Permit for Arya Tea, a retail boutique, requesting permission to add 6 chairs and 3 tables to be used by customers for the service and consumption of beverages and snacks. The applicant stated that the revenue generated by on-site consumption of tea is incidental to the business. The applicant further stated that there will be no food preparation on the premises. She estimated that there are approximately 1-2 take-out customers per day.

The hours of operation are:
Mon-Wed: 9-6
Thursday: 9-8
Fri & Sat: 9-5
Sunday: 10-2

The Board questioned the applicant as to the types of, and method of disposal for, trash generated by the business. The applicant stated that trash is primarily paper cups, tea leaves, and napkins,

and she expressed an openness to sharing the responsibility of maintaining and emptying the trash receptacles near the store. Board members also questioned the applicant as to the number of employees, and she stated that she will have four part-time employees, with no more than two working at any given time.

3. Ben & Jerry's Ice Cream, 5 S. Main Street, Special Use Permit

Present: Mike Brown

Discussion: Ben & Jerry's Ice Cream is requesting a Special Use Permit for an ice cream store at 5 South Main Street. They propose seating for approximately eight people in a business which would be primarily for take-out ice cream. Hours of operation would be: Sun-Sat. 11am – 9 pm. They propose interior storage of trash and have agreed to the concept of sharing the responsibility of maintaining and emptying the Main Street trash receptacles near their store.

The Planning Board expressed the following concerns and raised these items for consideration:

- ✍ The franchise requirements for signage.
- ✍ The retail base of Main Street is diminishing. The Village needs a critical mass of retail stores to insure that the retail base can thrive. It may be good to talk with retail merchants in the area about this issue.
- ✍ Parking and take-out refuse are routine concerns with food service businesses, and employee parking is a continual issue.

Planning Board

Pittsford Flour Mill, 15 Schoen Place ~ Site Plan

Present: Karen Kosten, Civil Engineer
Todd Longwell, Schoen Place, LLC
Michael Newcomb, Sr. owner

Discussion: The Board and Ms. Kosten reviewed the remaining site plan issues from the previous meeting:

- ✍ SEQR review has been completed.
- ✍ A memo from the Fire Department has been received and filed.
- ✍ The 20-inch water main on the site is being reviewed by the Monroe County Water Authority.
- ✍ Memos of Understanding are completed and signed by all parties.
- ✍ The light fixture heights have been added to the lighting plan.
- ✍ The DRC comments have been reviewed with the Village Engineer.

- ✍ Letter of Credit

Ms. Kosten estimates the cost of the site work for the main infrastructure to be \$104,000, and she stated that her clients are prepared to offer a letter of credit for this amount as insurance that the project will be completed. The Village Engineer estimates the cost for the entire project to be approximately \$175,000, and the Village Attorney stated that it would be appropriate for the Board to require the full amount, as determined by the Village Engineer, as security to insure that

the project will be completed as approved. Mr. Osborn further stated that if the first part of the project is completed in compliance with the plan, and the money is then released, the Village would have no insurance that the last portion of the project will be completed as approved. Mr. Longwell stated that Schoen Place, LLC has been in the home-building business for a number of years and has established a good reputation in the industry; therefore, his opinion is that it is not necessary to require their company to provide insurance that the work will be completed. Member Weniger stated that the issue is not whether the project will be completed, but whether the project will be completed *in compliance* with the approved plan.

Chairperson Mitchell pointed out that in 1985, a letter of credit for \$119,000 was required for a subdivision project on private property in the Village. This included all elements of the project: landscaping, lighting, paving, underground utilities, contingency fund, and engineer's inspection.

Chairperson Mitchell stated that a few weeks ago, at a meeting at the Village Hall, the applicants agreed to install a drain line in the rear of the Flour Mill property. She stated further that the drain was installed in a different location and with a different size pipe than what was agreed upon. As a consequence, the Village was required to agree to install a different drainage system. Site conditions sometimes require making adaptations to the approved plan, but these must be approved, and the applicant must follow the process.

The applicants responded that they had encountered a problem with the drain lines, the parking lot was flooded, they saw an opportunity to solve the problem, and this action was taken in an attempt to correct the problem on the site. Todd Longwell agreed that they would contact the building inspector and the engineers whenever there is a problem on the site.

Mr. Osborn addressed a letter sent to the Village on 12/7/05 by the applicants requesting a waiver of the letter of credit, based on Village Law § 7-730. He stated that § 7-730 refers to subdivisions and does not apply in this situation. He cited § 7-725a as the correct section of Village Law for this project, and stated that under this section, it is appropriate for the Village to require a letter of credit from the applicant.

Mr. Newcomb stated that his family has been building in this community since the early 1900's, has established a good reputation in the Village, and consequently, he does not agree that there is a need for a letter of credit for this project.. Mr. Osborn replied that given all the problems with this project, a letter of credit is an appropriate action for the Village to take.

The Board and applicants discussed the process to be followed in the future in the event that problems are encountered at the site. It was determined that the applicants will immediately notify the Building Inspector of any problems which prevent the applicants from complying with the site plan.

Ms. Kosten stated that the final plan will be reviewed and sealed by the landscape architect. Chairperson Mitchell reminded the applicant that any fence must be approved by the APRB.

Chairperson Mitchell stated that this hearing has been ongoing for over a year and a half, and it is time to close the public hearing and move forward.

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

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the area variance for modification of the drive aisle width from 24' to 21' (Section 210-81 C 2).

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear - yes; Weniger - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the area variance which requires three-foot landscape area between fence/screening at perimeter and abutting property (Section 210 E).

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear - yes; Weniger - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Motion: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to approve the area variance to allow parking within 20' of the rear setback (Section 210 43D 1a), noting that the RG&E right-of-way directly abuts this property, and that the Powers Farm is adjacent to the right-of-way.

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear - yes; Weniger - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the area variance for modification of parking space size from 8' x 19' to 8' x 18' (Section 210-81 B1).

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear - yes; Weniger - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the area variance to allow no more than 20 spaces without separation by interior driveway and landscape area; applicants provide only landscape area (Section 210-81 B4).

Findings of Fact:

- ⌘ All variances related to this project are minor parking lot variances dictated by the constraints of the site. These variances allowed optimum number of parking lot spaces which was desirable in this area.
- ⌘ The Fire Department has reviewed and approved the parking lot site plan for emergency vehicle access.
- ⌘ Landscaping has been located to mitigate impact of pavement from the various viewsheds.
- ⌘ An RG&E right-of-way is adjacent to the north property boundary. This property cannot be developed. Perimeter landscape requirements are not necessary to protect this area..
- ⌘ There are no undesirable changes that will be produced in the character of the neighborhood by granting these variances.
- ⌘ The proposed variances will not have an adverse effect or impact on the environmental conditions of the neighborhood or district.

It was also noted that the Village's consultant's fees will be charged back to the applicants.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the site plan, as submitted, subject to receipt of a revised set of site plan documents that incorporate the revisions discussed on 12/12/05, in addition to all previous conditions and approvals, and conditioned on:

- ✍ The Village Engineer's approval;
- ✍ Verification of water main location and depth;
- ✍ Receipt of a letter of credit in the amount specified by the Village Engineer with a security agreement to be entered into between the Village and the applicants pertaining to the letter of credit;
- ✍ Fire Department review;
- ✍ Response to all issues raised by Monroe County DRC;
- ✍ Payment in full to the Village of all consultant fees associated with this project, up to and including all fees as of the date that the building permit is issued, and payment in full of all consultant fees associated with the project which are incurred during and through completion of the project before a Certificate of Occupancy is issued.

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

Motion carried. The decision was filed in the Office of the Village Clerk on December 12, 2005.

Member Items :

Building Inspector's Report:

- ✍ There is no activity for the January Meeting.
- ✍ JoJo's parking lot: landscaping is completed, except for replanting the berm.
- ✍ Burdett lot: landlord can reserve a total of six parking spaces for his tenants.
- ✍ E-bay Store: Board members expressed concern that the business is not retail, but Mr. Bailey stated that he determined that the business is considered a service, which is an allowed use for the space. Trustee Galli suggested that the members put any specific concerns in writing for the Board of Trustees.
- ✍ Sutherland Auto: Mr. Bailey will check to assure that work is continuing as approved.

Board members discussed the summary of the priority issues for the joint board meeting, and identified action items.

Motion: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to approve the November 28, 2005 minutes, as drafted.

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

Motion carried.

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

Linda Habeeb, Recording Secretary
