

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting – March 27, 2006 at 7:00 P.M.

PRESENT:

Chairperson:	Remegia Mitchell
Members:	Sally Chamberlin
	Lili Lanphear
	Ted Weniger
	Tom Dannhauser
Attorney:	John Osborn
Record Secretary:	Anne Hartsig

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

Zoning Board

1. Old Pickle Factory, 1 Grove Street ~ Site plan: exterior lighting
Present: Sheila Fustiano

The Secretary read the legal notice that was published in the February 15, 2006 edition of the Brighton Pittsford Post: *“Please take notice that a Public Hearing will be held before the Village of Pittsford Planning Board at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, February 27, 2006 at 7:00 P.M. to consider an application made by Harris Rusitzky, owner of the Old Pickle Factory, located at 1 Grove Street, for minor site plan approval for exterior lighting, pursuant to Chapter 117-6 of the Code of the Village of Pittsford.”*

Discussion: The applicant stated that the lights were installed as the result of complaints from tenants about safety concerns in the parking lot at night. She apologized for installing the lighting without obtaining a permit, and she is requesting approval to keep the lights. She submitted calculations from the Lighting Engineer, Mr. Quagliatta, of Q-Tech, indicating that the foot candle measurements are within acceptable limits for the Village Code. Ms. Fustanio expressed concern for safety of the tenants and employees, and said lighting would be needed until 7 pm at the latest. In the back parking lot adjacent to High Street properties, vehicles have been stored and vandalism has occurred. Ms. Fustanio stated that they are willing to install motion detector lighting in that portion of the parking lot if that would be less annoying to the residents. There was some discussion as to what length of time the motion detector lights would remain activated and the possibility that they might turn on and off in bad weather. It was mentioned that the lights could be turned off during the summer months if it weren't for potential vandalism.

Chairperson Mitchell noted that the highest intensity shown on the plan was .2 foot candles. She also noted that the photometrics include light measurements from all fixtures in the area and not just those that were installed without approval. Chairperson Mitchell suggested that the applicants consider installing fixtures that would downcast the light so that it didn't have a “stadium effect.”

Chairperson Mitchell said there had been some complaints about an unenclosed dumpster on the Pickle Factory property. Ms. Fustanio said it belonged to Messenger Post Newspapers. She will investigate whether a permit has been issued for this dumpster.

Public Hearing Opened: Chairperson Mitchell opened the Public Hearing at this time, and the following people spoke:

Rory Juliano, High Street, stated that the lighting currently in use has a strong glare. He stated that he would approve of motion-detector lights but suggested that they be left on so that they could be activated all night. He also stated that small street light fixtures (low pole fixtures) could also work to keep potential vandals from frequenting the area.

Scott Spencer, 20 High Street, stated his concern about the number of loud and rowdy adolescents congregating in the rear of the building. He also stated that he agrees with the options to reduce the bright lighting that have been suggested by the applicant.

The Board continued the discussion with Member Weniger suggesting that the lights be positioned so that they shine toward the lot, with shielding for the residential area. Chairperson Mitchell stated that wall-packs are generally discouraged by the Board. Also discussed were bollards and a chain to prevent access to the rear of the parking lot. This would need to be locked and unlocked. The Fire Department will require access to the area. Chairperson Mitchell will check with the Building Inspector as to the Fire Department access. Ms. Fustanio will consult further with Mr. Quagliatta about downcast fixtures. She will explore the possibilities for a fence enclosure for the back area, and streetlight-type of fixtures.

Chairperson Mitchell is leaving open the Public Hearing, and the discussion will continue at the April Meeting.

2. ESL Credit Union, 11 State Street

Present: John Stapleton, Parrone Engineering
Nixon Peabody

Discussion: This is a continuation of an open Public Hearing for completion of SEQR review and resolution of open issues.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to declare the Zoning Board lead agency for SEQR.

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 March 27, 2006.

The applicants are proposing modification of an existing use variance and an area variance for parking. The modification of the use would allow the property to be used for offices and parking.

- ✍ The original use variance required 38 spaces, and the applicants are requesting relief to provide 27 spaces.
- ✍ The existing variance allowed associated parking and vehicular circulation; the applicants want clarification that this will remain, even though the first floor will be a bank.
- ✍ If approved, they propose to modify the 1957 variance by removing the first-floor office use and reverting to an allowed use.

Area variance for parking:

- ✍ Based on usable square footage, the ordinance would require a maximum of 31 spaces. The applicants are proposing 27 spaces.
- ✍ The applicants have submitted a traffic analysis from Parrone Engineer, indicating that they have provided sufficient parking: 14 spaces for the first floor and 12 spaces for the second floor. They predict that the remote teller will create less need for parking, as the customers would not be parking.
- ✍ The applicants stated that the remote teller is an integral part of the bank's proposal, stating that remote tellers are common among other banks and that customers expect to have that convenience.
- ✍ They have addressed the five standards of New York Village Law 7-712-b.

Mr. Stapleton stated that there are 32 existing parking spaces; the 1957 use variance referenced 38 parking spaces, which would not be feasible today because automobiles are larger.

- 1) According to the data provided by ESL, 26 parking spaces would be required during peak demand hours.
- 2) According to the ITE (Institute of Transportation Engineers) trip-generation manual, 26 parking spaces are needed for a bank of this size in suburban areas, and 23 spaces in urban areas.

The applicant has revised its original proposal by relocating the remote teller facility much closer to the building and by reconfiguring the internal traffic flows on-site. These changes were apparently intended to avoid the need for the use variance that would have been required to allow the development of the remote teller facility upon the residential portion of the site. The applicant believes that the relocation allows construction of the remote teller structure as a matter of right, pursuant to § 210-73 of the Village's zoning ordinance.

Section 210-73 provides, "Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the permitted uses for the less restricted portion of such lot may not extend over the district boundary line into the more restricted portion by more than 1/4 of the average distance of such lot's projection into the more restricted district. Regulations for the remaining portion of such lot within the more restricted district shall be as required by the district in which it is situated."

The north portion of this lot facing State Street is in the B-1 Business District. The south side is in the R-2 residential district.

Due to the configuration of the zoning district lines, the 25 percentage allowance on the east side of this property would equal 31 feet, while the allowance on the west side of the property would equal 29.6 feet. These calculations are based on lot dimensions of 102' and 114.6' respectively.

The current Adjusted Average Daily Traffic (AADT— number of cars going by in a 24-hour period) for State Street is 19,921. Member Weniger questioned the applicants as to whether there was a study done on Church Street. The applicants responded that they obtained the information from the Department of Transportation, and there was no study done on Church Street.

Hours of operation: The ATM in the foyer on State Street would be open 24 hours and would be entered on foot only.

The applicants submitted a plan which would allow traffic to enter and exit from State Street or Church Street. The Church Street exit would be designated as a right-turn-only exit.

Member Lanphear asked if the applicants would consider curbing the Church Street exit so that it would be harder to turn left. Mr. Stapleton replied that he does not recommend curbing it. He further stated that cars could enter either from the west or the east.

Chairperson Mitchell summarized the zoning issues:

- 1) Area variance: 27 car spaces are shown on the plan – current requirement is maximum 31 cars equaling a variance of 4 car spaces.
- 2) By the variance granted in 1957, the area is currently used as a parking lot and drive space, which is permitted in the residential district. The applicant is requesting clarification that automobile circulation is permitted in this area.
- 3) Technical variance – The use variance of 1957 allows this structure to be used as an office building. This area is currently zoned for retail space, banks, etc., but not offices. To grant this technical variance would require revoking the 1957 variance so that the building could no longer be used for offices.
- 4) Commercial use is allowed to extend into residential zone by 25% for this property which is split between two zones. This extension of use does not require a variance.

Majed El Rayess, 30 Church Street, stated that there has been an erosion in the village atmosphere because of the excessive amount of traffic in the area. He questioned whether the traffic report and trip-generation information included all the traffic on Church during the day. He said that Church Street is a short cut, with a continuous lane of parked cars along the south side of the street, making it very difficult for two-way traffic on the street. Most ATM traffic will come from Church Street. He concluded by saying that the effect of this project on the residents of the Village must be taken into consideration by the Board.

He also raised the following questions/comments:

- ☞ Has SHPO been involved in SEQR?
- ☞ Has anyone assessed the requirement for fire separation between Mr. Cook's building and the remote teller, or the remote teller and the proposed bank structure?
- ☞ Five parking spaces for customers and 9 employees seems like a small number compared to Chase Bank, which has 12 spaces for customers.
- ☞ When the Zoning Board approves a parking space variance, they should consider snow storage.
- ☞ The Board should consider adding a condition to any approval that it will always be a manned teller and will never become a 24-hour teller.

John Wilson, Boylan Brown, representing Canandaigua National Bank, stated that the applicant is incorrect in using the 30' measure for expansion into the R-2 zone. The ordinance says the "average" intrusion must be used, which would limit this intrusion to 29.6 feet. Beyond that, a use variance will be required. Including the island structure, the remote teller extends 40' into the R-2 district and would require a use variance.

Chase and Canandaigua National Bank have remote tellers which are compliant with zoning regulations. By constructing a façade facing Church Street, rather than State Street, the applicants have proposed moving commercial use to Church Street, which is inconsistent with the residential zoning.

Mr. Wilson stated that the applicant's trip-generation summary was incorrect and inadequate for several reasons:

- ? Only five spaces allocated for customer parking is not a sufficient amount.
- ? The analysis was based on a trip-generation summary that did not address Church Street.
- ? Counts taken at Canandaigua National Bank aren't accurate because they were based on three continuous snowy days and they weren't based on peak times.

Mr. Wilson claims that there were errors in the EAF prepared by the applicant, including the number of trips per hour, the number of employees, and the failure to identify problems.

Mark Tayrien, LaBella Associates, submitted a written report dealing with the following topics:

- ✍ Projection into residential district - 29.6' to 29'; beyond that would require a use variance;
- ✍ Parking - Based on traffic-generation study may be flawed;
- ✍ ITE parking generation manual - no reference to this in file;
- ✍ No basis given for number of drive-through customers;
- ✍ Peak times appear to be a problem for parking spaces;
- ✍ Non-teller visits – not adequate parking allowed;
- ✍ Only five spaces for inside customers – Canandaigua National Bank has seven stations, all occupied and queued up during peak times;
- ✍ Lighting is sensitive;
- ✍ Traffic estimates: 32 trips in – no basis for this figure; need to explain how they arrived at this number;
- ✍ ITE uses a calculation table which incorporates the number of teller windows, the square footage, and the number of employees;
- ✍ Not average workday – weather was inclement when traffic count was done
- ✍ Canandaigua Bank was closed half the times that ESL made counts for trip generations;
- ✍ Counts for current and future second-floor office uses;
- ✍ Traffic impact to street – there is no characterization of Church Street
- ✍ State Street is the easiest approach to State Street, and Church Street is the easiest to exit.
- ✍ Where customers are coming from determines which street they will enter the Bank from. See analysis in Appendix B, as submitted by Mr. Tayrien.
- ✍ Customers have to drive through pedestrian/parking area twice to use the drive-through teller, which creates excessive traffic in the area.
- ✍ Turning left onto State Street is difficult.

Mark Holdram, 31 Church Street, stated that he is concerned with any variance that might increase traffic on Church Street. He further stated that the residents are struggling to maintain residential lifestyle in the Village. New business should not be allowed at the expense of the quality of life of the residents.

David Werner, Church Street, stated that he has children and enjoys walking around the Village, and is concerned about the increase in traffic that will be generated by the ESL Branch. He expressed the opinion that approval of this variance will permanently, negatively alter the neighborhood.

Pauline Riley, 26 Church Street, stated that currently traffic in the area is a problem, and the bank will worsen the situation. She also stated that she is concerned about the lighting, with Chase Bank, the Library, and the ESL branch, it will change the character of the Village environment.

Suzanne El Rayess, 30 Church Street, raised the question of why the greenspace area is so small.

Janet Walsh, 14 South Street, stated that at the corner of State Street and Church Street, there is an excessive amount of traffic, at times causing a bottleneck. She also noted that there are no remaining parking spaces on Church Street by 10 am daily.

Ms. Bermudez, 24 Church Street, expressed concerns with proposed lighting for the bank shining into her residence at night. She further stated that she does not want to have commercial business next to her home, which will create major traffic problems. She requested that the Board also assess Great Northern Pizza traffic.

Janet Reynolds, 35 Church Street, stated that she counted 15 cars every half hour on a recent Sunday. She also questioned what the overall plan was for traffic-calming on Church Street, stating that there is a large volume of traffic at non-peak hours. She stated that she had requested a site plan depicting all driveways on Church Street at the January public hearing, and this was not provided.

Mike Reynolds, 35 Church Street, stated that the Chase Bank parking lot is used for its customers, and the employees park on Church Street.

Burt Riley, 26 Church Street, noted that the Board has heard from every resident of Church Street, and all are opposed to this project.

Tom Greiner, attorney for ESL, responded to these comments, stating:

- ✍ The remote teller can be relocated 4.8' closer to the brick building.
- ✍ The parking lot has variance to be used commercially.
- ✍ The grass island area surrounding the remote teller should not be calculated as part of the structure.
- ✍ The neighbors' comments are understood; ESL will have to allay the neighbors' fears.
- ✍ The applicant hasn't had time to review Boylan/Boylan submission.
- ✍ He does not think that the parking numbers in the SEQR form are erroneous.

The Planning Board will delay SEQR until another time. Both elements of the public hearing will be left open.

Planning Board Issues:

The site plan was reviewed by John Stapleton:

- Page 1: Title Sheet
- Page 2: Demolition plan - proposed to remove before construction: asphalt, guardrail on west side, piperail on east side, drainage.
- Page 3: Site layout and utility plan - parking spaces, aisle width, drainage structure, exits and entrances; will restrict left turns out of Church Street; will revise entrance location: 30' to east; will plant two trees.
- Page 4: Grading: flows south to north – will replace with trench drain; all other utilities would stay the same.
- Page 5: Landscaping – Plantings on North and East are existing; new walk to front entrance; low-growth bushes or ornamental trees in rear; increasing greenspace – grass and landscaping.
- Page 6: Lighting – seems to be appropriate; provides for security - only for typical parking lot lighting – could be reduced to security lighting; no business after 6 PM – after 6:30 lights could possibly be turned off; pole heights are 16'; will use shoebox fixtures similar to what is in public lot across the street; want to add building-mounted lights, such as gooseneck fixtures. The applicant was reminded that lighting fixtures will need approval from the APRB.

Member Weniger expressed concern with the “criss-crossing” of the traffic, and suggested that the south end of the parking lot be designated for employees only. He also raised the issue of safety concerns with pedestrians entering the building.

Mr. Stapleton replied that crisscrossing should not be a problem with the signage and pavement markings.

Member Lanphear suggested not allowing any traffic in or out of Church Street. Member Weniger stated that any additional traffic on Church Street will have a significant impact.

Chairperson Mitchell made the following comments/recommendations:

- ✍ Two-way traffic at State Street - access is narrow at 17 feet. Two-way drive aisles are typically 21'.
- ✍ Explore conversations with Cook law firm, an agreement that would benefit both and provide options for a wider two-way access is desirable.
- ✍ Side window teller – Has the possibility been explored? Has been explored – but all traffic would have to exit onto Church Street.

Mr. Stapleton explained the differences between an ATM and a remote teller: An ATM requires intense illumination with open air around it, while the remote teller requires 4-6 canister lights that shine down – would be confined.

The following details were discussed:

- ✍ Landscaping – ESL does not intend to re-do landscaping on the State Street side of the building. Tim Pryor, General Counsel for ESL, stated that according to the ATM Safety Act, an ATM vestibule must be well enough lit to see who is in there from the outside, and well enough lit to see who is on the outside as the customer exits.
- ✍ ESL will remove one Village tree, but will replace with two others. There will be plantings between Village property and parking.

- ✍ To assess the traffic plan, they need a drawing of all driveways on the street. There is approximately 40' from the nearest driveway to the parking lot.
- ✍ The remote teller is 3' from the west property line. In the B-1 district, the side setback is zero. A side setback of 15' is required in the R-2 zone. However, within the 25% extension allowance, the lesser restriction can be applied.

Planning Board Public Hearing:

Majed El Rayess, 30 Church Street, presented the following issues:

- ✍ NYS Building Code requires separation of two different structures, which have two different uses. He suggested that the applicant check with the Building Inspector about this.
- ✍ Traffic – stated his opinion that the driveway and location of the ATM were done because traffic is expected from Church Street.
- ✍ Lighting – Must provide some kind of lighting for those in front coming out from inside the ATM. The parking lot in the rear will be lit. He stated that growth and development is inevitable, and it will change the atmosphere of the Village.

Janet Reynolds, 35 Church Street, stated her concern about lighting for the ATM in the parking lot.

John Wilson stated that data would have to be provided, so that it can be reviewed. He also referenced “allowing the camel’s nose under the tent,” a colloquial phrase often used by Justices of the U.S. Supreme Court to describe the manner by which, in taking the first step along a legal path by allowing the ATM, the Board may lose the legal ability to say “no” when the applicant later returns with a request to convert an existing remote teller into an ATM facility.

Tim Pryor, ESL General Counsel, stated the following:

- ✍ The applicants have no intention of requesting approval to install an ATM machine, and even if they did, the Planning Board could deny it.
- ✍ It is important to think of the proposal in terms of its being a conforming use where it is currently nonconforming.
- ✍ The proposal is one of the least-demanding uses for the property; a restaurant or retail store would generate more traffic.

Pauline Riley, Church Street, stated that there will be more cars if the proposal is approved.

Janet Reynolds, Church Street, stated that the Presbyterian Church is allowed to use the property on Sunday mornings and would continue to allow the Church to use it.

Mr. Reynolds, Church Street, respects the intentions, but some people might not be there tomorrow. ESL needs to look at more than ESL intentions today – things can change in the future.

Majed El Rayess, 30 Church Street, the site plan review process is the same for everyone.

Chairperson Mitchell stated that she is leaving open the Public Hearing. The escrow account has not been set up, and Mr. Pryor indicated that that will be done on the following day. The Village may need to do an independent traffic study. There is a lack of landscaping on the east side of the rear parking lot.

Member Lanphear suggested that the driveway be reconfigured away from the residents.

3. JoJo's: ~ 60 North Main Street ~ Modification of site plan

Present: No representative for the applicant attended the meeting.

Discussion: Chairperson Mitchell summarized outstanding issues on this property.

- ✍ Repair and replanting of berm – choice of ground cover will need to be discussed with Roger Powers to make sure it won't adversely affect his land.
- ✍ Fence near the Corby tenant house has not been repaired
- ✍ Wheel stops
- ✍ Corby property tree was removed by mistake.

An email from Greg Barkstrom confirms his client's willingness to correct these items and offered several options for ground cover to be used on the berm. The Board discussed selecting a non-invasive ground cover which would have no adverse effect on the adjacent farmland.

Motion: Chairperson Mitchell made a motion, seconded by Member Weniger, to approve the replanting and restoration of the berm, the choice of planting materials to be reviewed by Roger Powers, and the deadline for completion to be 5/31/06.

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 March 27, 2006.

4. Michael Newcomb, Jr. ~ 10 Lincoln Avenue ~ Modification of site plan

Present: No representative for the applicant attended the meeting.

Discussion: In January, 2005, this applicant proposed the demolition of the existing structure at 10 Lincoln Avenue and the replacement with a new single-family residence with an attached garage. The Board decided to leave the Public Hearing open so that the applicant could investigate other methods to detach the garage and/or to minimize the setback variance requirement on the west boundary line of the property. Mr. Newcomb was advised by mail in March that if he has not submitted the required information or notified the office by March 8, 2006, the Board will assume that he is no longer interested in pursuing the application, and the application will be removed from the agenda and the public hearing will be closed at the March 27th PZBA Meeting.

Motion: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to close the Public Hearing for 10 Lincoln Avenue, without prejudice to the applicant.

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 March 27, 2006.

Member Items:

The Board then discussed the Development Review Committee Charter.

Member Lanphear stated that the outside storage of articles on South Street and Wood Street needs to be brought to the Building Inspector's attention.

PZBA Meeting
3/27/06

PVCA – Pittsford Village Civic Association: A non-partisan group is looking for people to be neighborhood captains.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the February 27, 2006 minutes, as drafted.

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

Adjournment: There being no further business, Chairperson Mitchell adjourned the meeting at 10:50 PM.

Anne Hartsig, Recording Secretary