

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting – April 24, 2006 at 7:00 P.M.

PRESENT:

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

Attorney: John Osborn
Record Secretary: Linda Habeeb

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

Zoning Board

1. John & Maura Hoenig, 25 Rand Place, Area Variance for an Addition

Present: John & Maura Hoenig

The Secretary read the legal notice that was published in the April 12, 2006 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, April 24, 2006 at 7:00 P.M. to consider an application made by Mr. John Hoenig, owner of property located at 25 Rand Place, for the following variance: an area variance to expand a nonconforming structure on a nonconforming lot, said structure having a front setback of 29 feet where 30 feet is required; and said lot having an area of 8959 square feet where 10,000 square feet is required, and a width of 65 feet where 70 feet is required, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of nonconforming buildings, structures, lots, or uses.”*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5 # 12 & 13.

Discussion: The applicant presented plans for a rear addition for his house, located at 25 Rand Street. The proposal is for replacement of the first floor bath with a family room, and replacement of the second-floor sunroom with a closet and larger sunroom.

Public Hearing Opened: Chairperson Mitchell opened the Public Hearing.

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

Motion: Member Chamberlin made a motion, seconded by Member Dannhauser, to approve the application for an area variance for an addition, 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 April 24, 2006.

Findings of Fact:

- 1) There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
- 2) The benefit sought by the applicant cannot be achieved by some feasible method other than a variance.
- 3) The requested variance is not substantial.
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

2. ESL Credit Union, 11 State Street

Present: John Stapleton, Parrone Engineering
Tim Pryor, General Counsel for ESL

Discussion: This is a continuation of an open Public Hearing requesting approval to modify the current use variance to convert the first floor office space at 11 State Street into an ESL Federal Credit Union. The applicants stated that this proposal is for a small branch of the bank compared to other branches in the area, and that therefore, it would have a lower impact on the surrounding neighborhood. They also emphasized that they are proposing a remote teller, not an ATM, which teller would not remain open past 6:30 p.m. Mr. Stapleton pointed out that representatives from ESL had met with Church Street neighbors to investigate ways to mitigate the impact of the bank on the neighborhood. He presented revised plans, stating that they had modified the proposal to allow no access to the bank from Church Street, and to allow only right-hand turns exiting the parking lot onto Church Street, with the use of curbing and signage to discourage left turns. He further stated that they have increased the proposed landscaping on the north and east ends of the property, and that the maple tree will remain. The plan also has a board-on-board fence near the east property line. The applicants also stated that the lights on the south side of the parking lot will be off at night, and the other lights will remain on until 8 or 9 p.m. for security reasons.

Member Chamberlin questioned the applicants as to why some lights needed to remain on until 8 or 9 p.m. Chairperson Mitchell asked the applicants whether the canister lights at the drive-through teller could be shut off after the bank closes. The applicant stated that some lighting of the parking lot will provide security for second-floor tenants. Canister lights could be shut off after closing. The applicant stated that the size of the remote teller has been reduced and that it would be located five feet from the property line. The revised site plan shows this structure six inches closer to the brick building so that it is entirely within the 25% limitation for expanded use of the B-1 District. Board Members also questioned the applicant as to their proposed method of snow storage and removal, and Mr. Stapleton replied that light snow will be stored on the property, and heavy snow will be hauled off the premises. Chairperson Mitchell informed the applicants that the details of their snow storage and removal plan should be indicated on the final plans. Member Weniger asked the applicants whether they had investigated what impact removal of the Church Street entrance would have on the business. Karen Davis stated that they had investigated that option, and having only one entrance and exit would not be suitable for the business.

Currently, the driveway measures 15 ½ feet in width. The survey shows 17 feet. This is an existing, nonconforming, driveway. Village Code requires 20 feet width for a two-way drive.

The applicant stated that their proposal indicates 29 parking spaces measuring 8 feet in width. Although these spaces could be reconfigured at a narrower width to allow for more spaces, it is safer to leave them at 8 feet.

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

Sue Emmel, 6 South Street, commented that she frequently walks around the Village, and she has observed that traffic is a major problem, especially on Church Street. She is opposed to the ESL bank having an exit onto Church Street, because of safety concerns associated with excessive traffic in that area.

Majed El Rayess, 30 Church Street, stated that he is concerned about the configuration of the proposal, which would cause customers to go around a “loop” to enter and exit the bank. He stated that the parking will be very congested, and that the stacking of cars at the remote teller will cause excessive exhaust. He also requested that the applicants better define their method of measuring square footage as it relates to parking requirements.

Janet Reynolds, 35 Church Street, submitted an article from the Canandaigua newspaper indicating that a sign prohibiting left turns exiting a Tim Horton’s restaurant in Canandaigua is routinely ignored by motorists. Ms. Reynolds further questioned the applicants as to the reason that the bank needed to have a remote teller, since there are other ATM machines within a short distance from this location.

Eric Thomson, 61 South Street, stated that he is opposed to a new business entering this location because it will generate more traffic in the Village, and there is currently no enforcement of the traffic safety laws.

Art Pires, 70 State Street, asked for clarification as to the variances requested, and was informed that the applicants are requesting a variance to revert to an approved use and another for reduction in number of parking spaces.

Mike Reynolds, 35 Church Street, stated that the ESL bank has more customers than other banks, and he has witnessed five cars lined up waiting for the remote teller at other ESL branches. He further suggested that the applicants have a “queuing” analysis conducted, in order to obtain accurate data.

Janet Reynolds, 35 Church Street, stated that the neighbors are striving to maintain the residential look and feel of Church Street. She further questioned the Board as to why the residents cannot review the meeting minutes prior to the Board’s approval of them.

Chairperson Mitchell explained to Ms. Reynolds that Board members review and approve the minutes. She further stated that if Ms. Reynolds has an issue with anything that is stated in the minutes, she is welcome to attend a meeting and restate her message to better reflect her concerns, or provide a written statement which would become part of the permanent record.

Art Pires, 70 State Street, stated his opinion that the Village of Pittsford meeting minutes are very thorough and accurate.

Pauline Riley, 26 Church Street, asked if the traffic study could include information on vehicles speeding, blocking intersections, and blocking driveways.

Janet Reynolds, 35 Church Street, inquired if the traffic study could address truck abuse on Church Street.

Mike Reynolds, 35 Church Street, stated that this use is a 100% intrusion into residential space.

William La Forte, Harter, Secrest & Emery, attorney for Tom Cook, owner of 7 State Street since 1979, stated that parking is a mess in the area near the Starbucks and the proposed site for the bank. He further stated that Mr. Cook was asked to remove the railroad ties that separate his property from 11 State Street. There is some dispute as to the accuracy of the survey that was done in the area. He also stated his opinion that the applicant's request to modify the use variance is actually a request to expand the variance.

Chairperson Mitchell stated that the letter sent by Mr. Cook's office to all Village residents regarding the ESL application was inflammatory and contained incorrect statements. She stated that contrary to the comments in the letter, the Planning and Zoning Board has carefully listened and considered the concerns of the neighbors regarding this application.

Chairperson Mitchell also stated that ESL has approved a deposit to their escrow account for a traffic specialist, Steve Ferranti, of SRF Associates, to analyze traffic flow patterns and trip-generation information in this area.

John Wilson, Boylan Brown, representing Canandaigua National Bank, submitted an evaluation of certain aspects of the current plans by the engineering firm, Labella Associates, P.C.

Mr. Wilson stated that ESL is making no effort to qualify for a use variance, because, according to ESL, its remote teller structure is entirely within the 25% split-zone allowance of Section 210-73 of the Village 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."

He further stated that the applicant recognizes that it may not extend a business or commercial structure beyond the 25% split-zone allowance, but has offered no case law or other precedent that would permit it to ignore the nearly 40 feet by which the remote teller structure extends impermissibly into the southerly R-2 portion of the site. He asserts that "the concrete portions of the remote teller structure are permanently located in the forbidden portion of the R-2 district, well beyond the 25% split-zone allowance; they are permanently attached to and part of the rest of the remote teller structure, and thus precluded by the ordinance unless and until the applicant obtains a use variance. See generally, Walker v Ehlinger, 544 Pa. 298; 676 A.D.2d (Sup. Ct. Pa. 1996)."

Tom Greiner, attorney for ESL, stated that landscaped islands do not require a use variance, but that the applicants could revise the plan to separate the landscaping portions of the remote teller in order to dispel the issue of its being a single structure.

Mr. Wilson asserted that ESL refuses to provide the Boards or the public with the data or calculations underlying its estimates of the number of vehicles entering the site during peak hours, the basis for concluding which of those would access the remote teller, or, of those parking, what proportion would visit a teller for either a short or lengthy transaction. Further, he stated that the information gleaned by LaBella with regard to ESL's Brighton Branch should give real pause to the Boards, since the Town of Brighton's files indicate that within about three years of construction, ESL's estimate for parking proved grossly inadequate, requiring it to seek and develop 15 more parking spaces than the 46 it originally sought.

Karen Davis, for ESL, stated that the Brighton Office is a large, regional branch of the bank, and that the smaller, neighborhood branch proposed for 11 State Street has fewer customers, and no drive-up ATM machine.

Mr. Wilson stated that ESL has determined that the zoning ordinance requires it to have only 29 parking spaces, not the 31 described in its initial application to the Boards. He further pointed out that the applicant has provided no plans or other documentation showing the extent to which it is entitled to such a reduction due to accounting for storage space in the building.

Mr. Greiner stated that even a request for 31 parking spaces does not constitute a heavy variance. Mr. Osborn, Village Attorney, explained that the Building Inspector will determine square footage measurements as the basis for parking requirements.

Mr. Wilson pointed out that no professional assessment has been made of the reasonably foreseeable traffic impacts upon Church Street. Finally, Mr. Wilson stated that if the Board wants to guarantee that the southerly portion of 11 State Street will never be used for an ATM, it can only ensure that result by a deed restriction containing a prohibitory covenant against such use, expressly enforceable by the Village or any neighbor adversely affected.

The Public Hearing will remain open, pending resolution of open issues and completion of SEQR review.

3. Old Pickle Factory, 1 Grove Street ~ Site plan: exterior lighting

Present: Sheila Fustiano

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5C # 15.

Discussion: This is a continuation of an open public hearing for site plan approval for exterior lighting. Ms. Fustanio stated that she had spoken with some of the High Street neighbors, and there are varying opinions as to whether the lights should remain on or be turned off.

Chairperson Mitchell pointed out that the Planning Board has jurisdiction over the foot candles or intensity of the lights and the height of the poles, and the Architectural Review Board has jurisdiction over the type of light fixtures. Ms. Fustanio will consult further with Mr. Quagliatta and return to the Board with a complete photometrics plan.

Chairperson Mitchell is leaving open the Public Hearing, pending the applicant's submittal of a final lighting plan.

4. Hick's & McCarthy's, 23 S. Main Street ~ Special Permit for Outside Food Service

Discussion: The Planning Board reviewed the preliminary proposal of Pat and Bob Bryant to create a seasonal outside restaurant service area at Hick's & McCarthy's, 23 S. Main Street.

- The Bryants will submit "table count" data to the Board of Trustees to support their claim of seasonal reduction of business.
- The Bryants will submit confirmation that this use is approved by the Burdetts, or whoever is legally responsible for the property. There was some concern among Board members that the Village and Town lease this parking lot.
- Pedestrian safety must be addressed. The proposed new sidewalk might help to slow traffic; however, the Board wants to see improved pavement markers, speed bumps, or other traffic-calming devices
- As with other outside service restaurants, the applicant should be required to remove an equal number of seats from the inside restaurant area, so as to avoid expanding the Special Exception Use. Board members raised concerns about the lack of enforcement of this requirement in other restaurants.
- The Planning Board expects that if this application is approved, site plan review will be implemented by the Planning Board. Special Use Permits should be conditioned upon site plan approval.

Two additional concerns were discussed following the meeting with the applicants:

- Hick's delivery trucks currently use the proposed patio space for deliveries.
- Hick's employee parking should be addressed as part of this application. It has been reported that Hick's employees use the Burdett lot for all-day parking.

Member Items:

JoJo's: At the March 27th meeting, the Planning Board voted to approve the replanting and restoration of the berm, and based on discussions with Roger Powers, the choice of planting is to be the "Empire" (short variety) of Birdsfoot Treefoil, and not the taller "Viking" variety, and the deadline for completion to be 5/31/06.

Minutes:

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

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

PZBA Meeting

4/24/06

Adjournment: There being no further business, Chairperson Mitchell adjourned the meeting at 10:30 PM.

Linda Habeeb, Recording Secretary