

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting – November 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:	Linda Habeeb

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

Zoning Board

1. Robert Tierney, 17 Green Hill Lane ~ Appeal from APRB Decision

Present: Robert Tierney
Reuben Ortenberg, Esq.

The Secretary read the legal notice that was published in the November 15, 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, November 27, 2006 at 7:30 P.M. to consider an appeal made by Robert Tierney from a decision rendered by the Architectural and Preservation Review Board regarding property located at 17 Green Hill Lane.”*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5 (b)(20).

Discussion: This is an appeal from a decision rendered by the Architectural and Preservation Review Board denying the applicant’s proposal to install vinyl siding at his residence, located at 17 Green Hill Lane.

Village Attorney, John Osborn, explained the appeal procedure, stating that the Zoning Board of Appeals is to review the process and examine the rationale for the APRB’s decision to determine whether the decision is fair and reasonable, and not arbitrary and capricious.

According to § 210-65 of the Village Code:

§ 210-65. Appeals.

Any applicant aggrieved by the action of the APRB in disapproving an application may take an appeal therefrom to the Zoning Board of Appeals pursuant to Article 7 of the Village Law of the State of New York, or as the same may be amended from time to time, in the same manner as is provided for other zoning appeals. Such Board of Appeals, after proceeding in the same manner as is provided for in other zoning appeals and with the same power and authority therein vested in passing upon appeals before it

under the provisions of the Village Law and other laws of the State of New York and this article, and in the exercise thereof, may reverse or affirm or modify and affirm the actions of the APRB.

Mr. Ortenberg presented a narrative and a chart indicating that the applicant's house is a colonial style house, built in or around 1960, and sided with wooden shakes, which are in need of replacement, painting, or covering with a different material. He further pointed out that the style, age, and siding of Mr. Tierney's house are identical to other houses on the same street that were granted approval by the APRB to install vinyl siding. He stated that in each instance, the APRB found that houses built in and around 1960 could be sided with vinyl because artificial siding materials were available when the house was built and because no significant architectural feature would be destroyed. Mr. Ortenberg concluded by stating that the interpretation of the facts regarding the Tierney house received a different and inconsistent evaluation than other houses in the Village and other houses on the same street, which, in his opinion, is an arbitrary decision.

Mr. Ortenberg requested that the minutes of the October 2nd APRB meeting be made a part of this record:

UNAPPROVED Minutes from the October 2, 2006 APRB Meeting

Robert Tierney, 17 Green Hill Lane ~ Siding Present: Robert Tierney

Application: Submitted and date-stamped on 9/27/06, and Building Inspector reviewed on 9/25/06.

Discussion: The applicant is proposing to install vinyl siding on his house, as described in his application. He had hired a contractor who was about to start work, without approval, but was issued a Stop Work Order by the Building Inspector. The applicant stated that the contractor had incorrectly advised him that a building permit was not required. The applicant stated that the existing wood siding (cedar shakes) on the house has deteriorated and will not hold paint in its current condition. He also stated that the cost of replacing the cedar in-kind is much higher than vinyl replacement siding. The applicant noted that other homes on his street have aluminum and vinyl siding.

The Building Inspector submitted a letter, dated September 29, 2006, listing six properties on Green Hill Lane, two properties on Courtenay Circle, and one property on Heatherhurst Drive that currently have either vinyl or aluminum siding.

Chairperson Melnyk explained to the applicant that the entire Village is a Preservation District, and the APRB is an architectural and preservation review board. Homes located within the Village need not be "historic" in order to be subject to architectural review.

Chairperson Melnyk then discussed the nine properties identified by the Building Inspector's letter as having aluminum or vinyl siding and the following was noted:

- The most recent applications dated from 1998 and 1996, and these involved new construction of an addition and the replacement of aluminum siding with vinyl siding, respectively. Neither application involved the removal of original wood siding.
- There are no records for the approval of vinyl or aluminum siding for three of the properties. It is likely that these either were re-sided prior to the adoption of the preservation code or were re-sided without approval.
- The applications for the other four properties were reviewed over 14 years ago, between 1988 and 1992, and it appears that the standards for review used at that time were different than the standards used by the Board today.

Chairperson Melnyk noted that the Board looked at this issue very closely in 2001 in connection with an application to apply vinyl siding to a home built in 1956 and located on Jefferson Circle. Chairperson Melnyk noted that the applicant's house was built around 1960 and that it is located in a tract that includes homes built in the 1940's, 1950's, and 1960's. The house is now of the same age (46 years old) as the home in the prior case, and, based on the current Village Code, the Board previously determined that vinyl is not an appropriate material for a home of that era in the Historic Preservation District.

Chairperson Melnyk cited two provisions of the Code as being applicable. First, the portion of the Code dealing with repairs which provides: "Deteriorated architectural features shall be repaired rather than replaced, wherever possible, and in the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities." (Section 210-61C.) He also quoted that portion of the Code dealing with alterations: "...contemporary design for alterations and additions to existing properties may be permitted when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, material and character of the property, neighborhood or environment." (Section 210-61A.(1))

Board members then questioned the applicant further regarding the existing condition of the cedar shakes and the possibilities for re-painting and partial replacement of deteriorated shingles. The applicant stated that he was told by a contractor that the entire house needed to be sanded before being painted and that one side and the rear needed to have the shingles replaced.

Board member Watt inquired as to the reveal "to the weather" of the existing shingles and the proposed replacement siding. It was stated that the existing shingles are 13" to the weather while the proposed new clapboard-style siding is 4-5" to the weather. Also, it was stated that the window sills and other trim would be wrapped with aluminum. Member Watt expressed concern that this application would really change the appearance of the house and noted that, in her opinion, cedar shingle is a key feature of the architectural style that is predominant in that neighborhood and that this style is worthy of preservation.

Board members indicated that they are sympathetic to the applicant's economic concerns, but are required to follow the Village Code. Board members pointed out that in the applicant's proposal, the material, as well as the design and style, would be changed, and that there is no acceptable substitute material known to them that mimics cedar shingle.

The applicant indicated that if the proposal for vinyl siding is denied, he would paint. The Board encouraged him to speak to a variety of contractors and to consider replacing deteriorated shingles in-kind either by patching as needed or by re-siding one or two entire sides if needed.

Findings of Fact:

- The house was built circa 1960.
- The house has cedar shakes that have a 13" reveal "to the weather."
- The proposed vinyl siding would have a 4-5" reveal "to the weather" and it attempts to replicate clapboard-style siding rather than cedar shingles.
- Vinyl is not an appropriate substitute material to replicate wood siding of this era.
- The wrapping of the windowsills and other trim with aluminum would alter architectural features of the home.
- Cedar shingles are available and can be used to replace deteriorated shingles.
- A predominant architectural feature of the homes in the neighborhood is the use of cedar shingles.

Motion: Chairperson Melnyk made a motion, seconded by Member Latshaw, to *deny* the application to install vinyl siding at the residence located at 17 Green Hill Lane.

Vote: Willard - yes; Watt - yes; Melnyk - yes; Latshaw - yes; Lanahan - yes. *Motion carried.* This decision was filed in the Office of the Village Clerk on October 2, 2006.

Chairperson Mitchell asked the applicant whether he had consulted with the Building Inspector prior to starting work on his house. The applicant stated that he had not, that he had received incorrect advice from his contractor, stating that a permit for the work was not required. Member Weniger raised the issue as to which features on the house would be considered of historic value, for example, the reveal of the siding and the recess of the windows. He also questioned the applicant as to whether he is proposing preserving the brick on the house, and Mr. Tierney stated that he was.

Chairperson Mitchell explained that the entire Village is designated as an historic preservation district, and the APRB is an architectural and preservation review board. She further stated that the Village Code and the Secretary of the Interior Standards require that deteriorated architectural features be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. She pointed out that the New York State Office of Parks and Recreation and Historic Preservation (SHPO) does not approve of the use of vinyl except in low-income housing. She then reviewed the supporting findings of fact from the APRB's denial, which are noted above.

She raised the question as to whether the current APRB is bound by past, possibly incorrect, decisions. Mr. Osborn stated that the Board should consider the facts of the case at hand.

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

- **Mr. Dugan, 12 Green Hill Lane,** stated that the APRB approved vinyl siding for his house, and he is in support of the applicant's proposal.

It was noted that this 1998 approval was for an addition, which changed the house and included some asbestos siding.

- **Peter Donnelly, Green Hill Lane,** stated that there are other houses on the street with vinyl siding.
- **Henry Bodem,** stated that he is attempting to understand the system, and asked what types of changes to property require approval from the Village Boards.

The Board discussed the fact that not all residents are aware of the requirements for seeking approval from the Village Boards prior to making certain changes to their residences and property. They suggested that realtors should clearly inform prospective homeowners of these requirements. Board members further pointed out that this can be to the residents' benefit, in that property values are protected by the regulations.

Board Members stated that they need more time to further investigate past APRB decisions prior to deciding this appeal.

Planning Board

1. J. Daniel Subtelny & Craig Dupra, 72 & 74 S. Main Street, Minor subdivision

**Present: Michael J. Kieffer, Esq.
J. Daniel Subtelny**

Discussion: The applicant presented a map indicating the location of the proposed lot line change on the properties of 72 & 74 South Main Street. At the September 27th Board meeting, it was determined that this application required full environmental assessment under SEQR, with the Planning Board acting as lead agency. Chairperson Mitchell reviewed the responses to the letter requesting that the Planning Board be named as Lead Agency.

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

Motion: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to declare the Planning Board as lead agency.

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 November 27, 2006.

Motion: Chairperson Mitchell made a motion, seconded by Member Weniger, declaring that the project will not result in any large and important impacts and, therefore, is one that will not have a significant impact on the environment; therefore, a negative declaration is made.

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 November 27, 2006.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, to approve the application, 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 November 27, 2006.

Findings of Fact:

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

2. Del Monte Lodge, 41 N. Main Street ~ Minor site plan

**Present: John Tengeres
Tim Tyskiewicz, Architect**

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5 (b)(7).

Discussion: The applicants presented a proposal for changing the restaurant entryway and enclosing the existing covered landing to increase the size of the entry area. They are also proposing expansion of the floor space in the restaurant to increase the seating area. They also

propose expanding the exercise room into the courtyard area, to create an area for hotel guests to exercise. They also propose adding new curbing. The Building Inspector stated that there are no parking issues associated with the proposed plan, because the restaurant has twice the parking that is required by Village Code.

Motion: Member Chamberlin made a motion, seconded by Chairperson Mitchell, to approve the application for the site plan, dated-stamped 11/08/06, 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 November 27, 2006.

3. First Presbyterian Church, 21 Church Street, Site plan

Present: George Alger

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5 (b)(7).

Member Dannhauser recused himself from this application.

Discussion: This is a continuation of an open public hearing for lighting along the sidewalk at the First Presbyterian Church, located at 21 Church Street. The hearing was left open pending submittal of further details of the lighting plan. The applicants presented a lighting plan, including the photometrics and wattages of the proposed lights. The highest measurement of light will be .2 footcandles, which is within the permitted range. Chairperson Mitchell questioned the applicant as to the shut-off time for the lights, and Mr. Alger stated that for safety reasons, he is requesting that the lights remain on until 11:00 pm.

Motion: Member Weniger made a motion, seconded by Member Chamberlin, to approve the application for two pole lights, with a timer to turn on at dusk and turn off at 11:00 pm.

Vote: Dannhauser – abstain; Chamberlin – yes; Mitchell – yes; Lanphear – yes; Weniger – yes.
Motion carried. The decision was filed in the Office of the Village Clerk on November 27, 2006.

4. Scott Likly, Towpath Bike Shop ~ Site Plan

Present: Scott Likly

Discussion: The applicant is requesting modification of a previously-approved site plan. Board members had expressed concern with display bicycles blocking the sidewalk on Schoen Alley, preventing pedestrians from being able to walk safely along the area in front of the shop. The Board had also expressed concern that handicapped access would be blocked. The applicant agreed to stripe the pavement in that area to prevent obstruction of the sidewalk and to create a safe walking zone and boundary for the display area. The applicant presented a site plan incorporating these suggestions.

Motion: Member Dannhauser made a motion, seconded by Member Chamberlin, to approve the modified site plan for Towpath Bike Shop to include a striped area adjacent to the Schoen Place roadway separating the roadway from the bike parking and staging area in front of the shop, consisting of visible striped lines indicating “No Parking”; the center bike rack located parallel to the roadway within the bike staging area is to be located at least 6 feet north of the front edge of the step of the Towpath Bike Shop, as indicated by Sketch A, dated-stamped and submitted on 11/27/06, with the following conditions:

- A passageway for safe handicapped access to the bikes is to be maintained.
- No bikes will block the sidewalk on Schoen Alley.
- Display bicycles will be for rental only.

Findings of Fact:

- Bicycle rentals and sales enhance the New York State policy to encourage recreation and economic development on the Erie Canal.
- This plan will not alter the essential character of the neighborhood because cycling is virtually noise-free and will have low or little impact on the abutting residential district.
- Storage of the bicycles immediately adjacent to the canal is practical and necessary to this rental operation.
- The size of the bicycles makes the outside storage necessary to maintain an adequate inventory.

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 November 27, 2006.

Building Inspector's Report:

Mr. Bailey reported that a preliminary plan for the Pittsford Farms Dairy project was presented to the APRB for information only. Mr. Osborn stated that there may be a Code change related to this project, involving a new district designation for a dairy and farm.

Minutes: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to approve the October 23, 2006 minutes, as amended.

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

The Board discussed the new mandatory training requirements for PZBA Board members.

Adjournment: There being no further business, Chairperson Mitchell adjourned the meeting at 9:30 pm.

Linda Habeeb, Recording Secretary