

Village of Pittsford
PLANNING and ZONING BOARD OF APPEALS
Regular Meeting – January 28, 2008 at 7:00 P.M.

PRESENT:

Chairperson:	Remegia Mitchell
Members:	Sally Chamberlin Tom Dannhauser Lili Lanphear Dennis Peters
Alternate:	William McBride
Attorney:	John Osborn
Building Inspector:	Edward Bailey
Recording Secretary:	Linda Habeeb

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

Zoning Board

John Salisbury, 59D Monroe Avenue ~ Appeal determination of Building Inspector
Present: John Salisbury; James Grossman, Counsel

The Secretary read the legal notice that was published in the January 16, 2008 edition of the Brighton Pittsford Post: *“Please take notice that a Public Hearing will be held before the Village of Pittsford Zoning Board at the Village Hall, 21 North Main Street, Pittsford, New York on Monday, January 28, 2008 at 7:00 P.M. to consider an application made by John Salisbury, to appeal the determination of the Building Inspector regarding property located at 59D Monroe Ave, pursuant to Chapter 210-113B(1) of the Code of the Village of Pittsford.”*

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

Discussion: The applicant is appealing the decision of the Building Inspector denying the application for a building permit to operate an audiologist’s office in the building located at 59D Monroe Avenue. The property is located within the B-3 Special Business District.

§ 210-36. Use regulations.

Within the B-3 District, no building, structure or premises shall be used, and no building or structure shall be erected or altered, except for one or more of the following uses:

A. Principal uses shall be as follows:

(1) Buildings to be used to house the offices for a business, professional, insurance, administrative sales or similar organization having only limited contact with the general public, provided that the activities of which are conducted primarily by mail and that no merchandise is handled for sale or merchandising services are rendered on the premises other than incidental to the principal use.

Mr. Grossman stated that the section contains inherent ambiguities that require the Board to interpret its meaning. The letter denying the building permit states that uses in the B-3 Special Business District must be conducted primarily by mail, with limited contact with the public, and with no sale of merchandise. He further pointed out that other businesses in the Village Green complex, such as physicians' offices, law firms, and real estate offices, do not conduct their businesses "primarily by mail" with "limited contact with the public." He also noted that hearing aids are not subject to sales tax, and, rather than being a separate "retail" use, the dispensing and fitting of hearing aids is incidental to the professional use of the office by the audiologist.

He also stated that the Building Inspector's denial references the application of a 25-percent limitation for physician and other medical offices in Village Green, but that there is nothing contained in the Village Zoning Code which adopts such a standard. Mr. Osborn stated that during the process of site plan approval, the Planning Board has the authority to make certain restrictions regarding parking and traffic.

Mr. Salisbury explained that the proposed use of the building is for one audiologist to provide hearing tests to individuals by appointment only. He said that his practice involves testing, evaluation, and fitting patients with hearing aids, but that he does not administer medical treatment. He stated that there will only be facility to test one person at a time, which limits the number of people and cars that will visit the site. He concluded by stating his opinion that this would be a low-intensity use of the property, which would be a valuable addition to the Village.

The applicants stated that the upper floor of the building will be used as the office, and the lower floor will be primarily for storage. Chairperson Mitchell pointed out that it would be possible for the applicants to use the lower floor for offices also, as it is a permitted use of the space.

Board members questioned the applicant as to the proposed hours of operation and number of patients, or clients, the business would generate. The applicant stated that the hours of operation would be 9 am - 4:30 pm, with the audiologist seeing a maximum of 3 patients per hour. The Board pointed out that this would result in a total of 18-25 patients a day.

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

John Higgins, 16 Winchester Drive, stated that since the proposed use would be of a lower intensity than in the past, he is of the opinion that it would be a good use of the property.

Eric Bond, owner of Building 71, expressed his concern that this proposed use of the building will exacerbate the already difficult parking situation on the site. He also stated that many of the other businesses in the Village Green conduct the majority of their business off-site.

Ida Lowe, Owner of Building 61E, expressed concern about the parking situation at the site.

Charles Smith, architect, stated that the planned renovations for the office will not allow for enough space for a large number of patients.

There were four letters to the Planning Board in opposition to this proposal that were submitted for the record.

Chairperson Mitchell said that the Public Hearing will remain open.

Planning Board

**1. Newcomb Oil Company, 57 North Main Street ~ Minor site plan
Present: Michael Newcomb**

The Secretary read the legal notice that was published in the January 16, 2008 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, January 28, 2008 at 7:00 P.M. to consider an application made by Michael Newcomb for minor site plan approval for property located at 57 North Main Street, pursuant to Chapter 210-83 of the Code of the Village of Pittsford”.*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5 #7 & 15.

Discussion: The applicant presented a revised site plan for the gas station at 57 North Main Street. He stated that he is now proposing two peaked canopies for the gas pumps, instead of one flat canopy, which was originally proposed. He stated that because of the equipment required by the Fire Code, it is necessary for the proposed canopies to be larger than the existing canopies. He also is proposing building a one-story addition in the rear of the building for storage. He presented a lighting plan and some landscaping suggestions.

Chairperson Mitchell stated that the maximum intensity of the lights on the site should not exceed 6 foot-candles. Mr. Newcomb stated that because of safety concerns for customers at the gas pumps, it was necessary for the lights to have a higher wattage. He indicated that he will use existing poles for perimeter lighting. Chairperson Mitchell noted that the existing lights on the front of the building should be modified to provide shielded, downcast light. She also further noted that new or replacement light fixtures will need to be approved by the APRB.

Board members also discussed the proposed landscaping, and Mr. Newcomb stated that there is not much space for landscaping on the property, but that he would have some plantings and planters. Chairperson Mitchell suggested that plantings can be added on the south property line and called attention to the Village code requirement of 5% landscaping on commercial sites.

Board members stated that the handicap parking space needs to be marked with both a sign and striping on the pavement. They told Mr. Newcomb that site plans should be modified to indicate ingress and egress.

Chairperson Mitchell informed the applicant that the Board’s feedback regarding the site plan was generally positive, and she stated that the public hearing will remain *open*, pending the applicant’s addressing the following concerns:

- Lighting
- Handicap parking space
- Landscaping plan
- Signage

INFORMATION ONLY:

**1. Special Permit for Restaurant at 50 State Street
Present: Gayle & Nick Mourgides**

Discussion: Mr & Ms. Mourgides are requesting a Special Use Permit to open a new restaurant at 50 State Street. The applicants indicated that the proposed site will require no changes to the exterior or interior of the building, but stated that they intend to establish a patio for outdoor seating. They were unable to provide the total number of seats proposed at this time. The PZBA recommended that the permit identify the specific number of seats, including usage for indoor and outdoor seating. In the past, the Board has requested a diagram of the tables and chairs. This project is currently in the planning stage; however, the Board of Trustees can require this diagram.

Board Members indicated that the following issues should be addressed:

1. Disposal of grease and other food waste and location of garbage dumpsters.
2. Location and frequency of trash collection.
3. Whether the applicants are required to provide a handicap accessible parking space for the restaurant. Preservation of the existing space that currently serves the ice cream parlor is important.

A summary of the PZBA comments will be forwarded to the Board of Trustees in a memo from Chairperson Mitchell.

**2. Pittsford Dairy, 44 North Main Street ~ Special Permit & Preliminary Site Plan
Present: Ron Morgan, Charles Corby**

Discussion: Mr. Morgan and Mr. Corby presented a power-point presentation of the proposed preliminary site plan and requested feedback from the Board. They stated that the proposal will maintain the Dairy as a functioning business. There will be three sections to the new facility: (1) Store (dairy/ice cream parlor) (2) Connector (coolers, freezers), and (3) Processing plant, totaling approximately 8,000 sq. ft. The proposed plan will maintain the existing drive-up customer parking at the store in the front of the building, with additional parking on the side and in the rear of the building.

They pointed out some modifications to the previous plan:

- ⇒ The circle will be enlarged and the driveway reshaped to allow customers to drive up to the front of the Dairy;
- ⇒ The connector part of the building will be larger;
- ⇒ The driveway will be straighter to allow customers to drive up to the front of the store; and
- ⇒ The processing plant will be constructed further north than originally planned.

Mr. Morgan next presented the proposed parking plan:

- ⇒ Employee parking will be in the rear of the property;
- ⇒ Queue parking along the circle;

- ⇒ Parking on the side of the store; and
- ⇒ Overflow parking in front of the barn.

Chairperson Mitchell expressed concern with the proposed parking area in the front of the barn, and suggested to the applicants that the plan provides adequate parking without the added overflow parking in that area. Mr. Corby stated that that area will be used for parking only during extremely busy times and that there will be no pavement, grading or striping of this area.

Mr. Morgan stated that some trees will be removed to allow construction of the new facility. He presented photographs indicating which trees will be removed and which will remain. He noted that the historic, landmark trees will remain, and that they will plant some specimen trees.

Member Items:

Minutes: Chairperson Mitchell made a motion, seconded by Member Dannhauser, to approve the November 26, 2007 minutes, as drafted.

Vote: Dannhauser – yes; Chamberlin – yes; Mitchell – yes; Lanphear – yes; Peters – yes. ***Motion carried.***

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

Linda Habeeb, Recording Secretary