

**Village of Pittsford
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – April 26, 2010 at 7:00 PM**

PRESENT:

Chairperson:	Remegia Mitchell
Members:	Sally Chamberlin Meg Rubiano George Wallace Lili Lanphear
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

**Sutherland Auto Group, 9 Monroe Ave ~ Extension of Special Exception Use Permit
Present: Frank Hagelberg, Counsel for Sutherland Auto Group; Paul Harris, owner**

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

The Secretary read the legal notice that was published in the April 14, 2010 edition of the Brighton Pittsford Post: *“Please take notice that a Public Hearing will be held before the Village of Pittsford Planning Board, on Monday, April 26, 2010 at 7:00 pm at the Village Hall, 21 North Main Street, Pittsford, NY, to consider an application made by Frank Hagelberg, on behalf of the applicant, Sutherland Auto Group, LLC, for an extension of a previously granted Special Exception Use Permit for Sutherland Service Center, located at 9 Monroe Avenue.”*

Discussion: Mr. Hagelberg stated that Sutherland Auto Group is proposing an extension of the Special Exception Use Permit for the continued use of the property as a public garage. He explained that prior to 2005, the property was used as a gasoline filling station and automobile service facility. The applicant then proposed to discontinue the sale of gasoline and the servicing of automobiles and to use the property for the sale of late-model used automobiles. In order to authorize this use, Sutherland Auto acquired a Special Exception Use Permit for the use of the property as a public garage, as defined in the Village Zoning Code.

He further explained that the original approval granted by the Zoning Board in 2005 was reviewable and renewable after five years, but in 2009, the Village Board of Trustees repealed §210-27 of the Village Code, which permitted public garages in B-1 Districts, and categorized public garages as prohibited business uses in the B-1 District. Because these amendments would have made it impossible to renew the Special Exception Use Permit granted in 2005, the Village Board of Trustees adopted Local Law No.1 of 2010, amending § 210-6 of the Zoning Code to provide that “a use of land existing pursuant to a Special Exception Use permit granted prior to any amendment of this chapter which no longer conforms to the regulations of the district in which it is situated may continue for the

duration of the Special Exception Use Permit, and any such Special Exception Use Permit may be further extended by the Board which issued the earlier permit after due notice and public hearing upon findings that extension of the permit will comply with the standards set forth in § 210-113B(2)(a)..."

Mr. Hagelberg stated that the applicant has operated the property since 2005 in compliance with the conditions imposed by the Village, and is now seeking a permanent extension of the Special Exception Use Permit, subject to the existing operating conditions and restrictions.

Board members reviewed the conditions for the 2005 approval. Member Lanphear stated concerns with the Board's approving a permanent Special Use Permit, which will not be periodically reviewed. Mr. Turner explained that the permit "runs with the land" and is subject to the conditions previously issued by the Board in 2005. The Board also discussed the number of cars currently displayed on the property, and whether Sutherland Auto is complying with the stipulations stated in the approval. Mr. Bailey stated that there is no evidence of an excess number of cars being displayed for sale at Sutherland Auto. Mr. Harris explained that some parking spaces behind the building are used for "staging" cars, but that these cars are not for sale.

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

Public Hearing Closed: Chairperson Mitchell closed the public hearing at this time, as there was no one wishing to speak for or against this application.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the application from Sutherland Service Center for a Special Exception Use Permit, subject to the conditions originally set out in the Special Exception Use Permit granted in 2005.

Vote: Chamberlin – yes, Mitchell – yes, Lanphear – yes, Rubiano – yes; Wallace - yes.

Motion carried. The decision was filed in the Office of the Village Clerk on April 26, 2010.

Pittsford Pub, 60 North Main Street, Temporary Permit

Present: Mr. Searles

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.5(c)(15).

The Secretary read the legal notice that was published in the April 14, 2010 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 26, 2010 at 7:00 pm, to consider an application made by Brad Sluman for a temporary zoning permit to allow outdoor entertainment in the evening hours from May 1, 2010 through October 15, 2010, at the property known as The Pittsford Pub, located at 60 North Main Street, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford."*

Discussion: The applicant stated that he is requesting a temporary permit to allow live, outdoor music on the front patio at the Pittsford Pub, from 7 pm to 10 pm on Wednesday through Saturday nights during the summer months. He further stated that the music will be low-key, acoustical, background music that customers can enjoy while dining.

Board members questioned the applicant as to whether there were any issues/problems with the music in the past. The applicant stated that there was one complaint regarding a performer whose music was very loud, but he no longer performs at the Pub. Mr. Searles

stated that he closely monitors the sound and will insure that it is confined to the property. Mr. Bailey stated that the Village has received no complaints about the music.

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

Public Hearing Closed: Chairperson Mitchell closed the public hearing at this time, as there was no one wishing to speak for or against this application.

Motion: Member Chamberlin made a motion, seconded by Member Rubiano, to approve the temporary permit for live, background music on the patio at the Pittsford Pub, located at 60 North Main Street, on Wednesday-Saturday, from 7pm-10pm, from May 1, 2010 to October 15, 2010, subject to the following conditions:

1. The music will be contained to the site.
2. The music will conform to the Village noise ordinance.
3. The Village reserves the right to revoke the permit at any time upon finding that the conditions have not been met.
4. The applicant will provide a contact number of the proprietor for residents to call to express concerns regarding noise levels.

Vote: Chamberlin – yes, Mitchell – yes, Lanphear – yes, Rubiano – yes; Wallace - yes.

Motion carried. The decision was filed in the Office of the Village Clerk on April 26, 2010.

Olives Restaurant, 50 State Street ~ Expansion of Special Permit

Present: Gayle and Nick Mourgides, owners

Discussion: Mr. Mourgides stated that they are proposing expansion of the restaurant between the wall of the space occupied by Pittsford Electronic and their restaurant. They are proposing moving five tables from the restaurant to the new space. It would also be a handicap entrance for the restaurant. They do not propose adding any additional seating.

It was noted that in 2002, the Board of Trustees approved the applicants' request for outdoor seating on the patio during the summer months, but they currently do not have outdoor seating. The Board pointed out that it would be necessary to install seasonal screening if they decide to add the outdoor tables.

Mr. Turner explained to the applicants that a coordinated review of the environmental issues raised by this project is appropriate under the SEQRA regulations. He stated that they needed to complete the long form (TYPE I) and submit it to the Village Office. After the SEQR process is completed, the Board will make recommendations regarding this proposal to the Board of Trustees.

Information only:

- **Tru, 6 South Main Street ~ Awning/sign**

Discussion: The representative for the business, Tru, located at 6 South Main Street, stated that he was interested in information regarding signage on an awning. He stated that they would like to install a non-retractable awning with sign lettering on the main portion of the awning at the business. Mr. Bailey stated that a non-retractable awning would be permitted in this situation, because the awning does not project onto the public sidewalk. Village Code

only allows sign lettering on the fringe of awnings, so a variance would be required for this type of awning.

**St. Louis Church, 21 Rand Place, Garage and fence replacement; property lot line change
Present: Brendan Bystrak, Bob Healy, LaBella Associates; Sally Schrecker, St. Louis Church**

Discussion: Mr Bystrak stated that they are seeking the Board's comments regarding the following proposed changes to the property located at 21 Rand Place:

1. Razing of the existing two-car garage at 21 Rand Place.
2. Construction of a new garage with storage at 21 Rand Place, including replacement of the existing sidewalk and driveway.
3. Boundary line adjustments to facilitate various church campus improvements, including:
 - Reconstruction of the church access to/from Rand Place with a new sidewalk, including pedestrian level lighting on the south side of the access to Reddington Hall.
 - Potential relocation of the utility pole (RG&E #4) and various communication services to the adjoining homes for modification of the campus access to/from Rand Place.
 - Installation of a sidewalk on the east side of Reddington Hall with provisions to protect new HVAC equipment.
 - Parking relocation east of Reddington Hall with provisions for snow storage.
4. Modification of the church's Special Exception Use Permit for area conveyed from 21 Rand Place to the Church parcel.
5. Removal of the existing brick and wood fencing systems between 21 Rand Place and the Church campus.
6. Installation of a new fencing system along the north and west boundaries connecting to the garage, as represented on the sketch plan and colored rendering submitted.
7. Landscaping to buffer the campus parking modifications.

He further stated that after meeting with the Building Inspector, reviewing the Village's ordinance, and presenting a conceptual plan to the Architectural and Preservation Review Board, they have identified five conditions that require Planning Board site plan approval, including:

§ 210-83B(3) The changing of one or more lot lines on one or more lots.

B(13) Any use that requires a special permit or Special Exception Use Permit where any alteration to the site is proposed.

B(16) The construction of a residential detached garage where the total floor area exceeds 400 square feet or the structure exceeds one story.

B(17) The construction of a residential driveway where the existing curb cut is altered or a new curb cut is proposed.

B(18) The location of utility poles for overhead utility lines.

He stated that in addition to these site plan actions, there is one variance requested from the R-2 zoning criteria, § 210-12(E) Dimensional requirements. Lot area per residential structure

states “The minimum lot area shall not be less than 10,500 square feet and the lot width at the street line shall not be less than 70 feet and average depth of the lot shall not be less than 150 feet.”

Mr. Bystrak also stated that the new garage will be a two-story garage, which will be set back 10 feet from the house and 3 feet from the lot line. He concluded by stating that the house will remain as residential, and the occupant will have use of the two stalls in the proposed garage.

Chairperson Mitchell stated that in 2000, St. Louis Church was granted a variance for the parking spaces needed for expansion of the church sanctuary. She pointed out that this Board has previously dealt with the expansion of the church and additional parking and the associated blacktop. Board members questioned the need to reduce a residential lot line for the purpose of gaining more parking.

Chairperson Mitchell questioned the assertion that the additional sidewalk was needed for the safety of children, when the proposed location for the sidewalk does not generally serve children going to the school. She also stated that a new Special Use Permit may be required for church use of a garage on residential property. Another concern noted by Board members was the removal of trees in order to create more parking.

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

- **Collette Yon, 27 Rand Place**, stated that she does not support this proposal by St. Louis Church, and she submitted a petition with 39 signatures of other neighbors opposed to this plan.
- **Hedrina Schindler, 34 Rand Place**, stated that the property should remain as residential property, and the proposal is merely a façade for more church parking.
- **Paul Schenkel, 18 Rand Place**, stated that although the proposed plan is probably conceptually acceptable, he is concerned with maintaining the residential character of the neighborhood. He further stated that there are currently problems with school buses and traffic congestion on Rand Place.
- **Cindy Wallace, 30 Rand Place**, stated that this proposal would cause the street to lose its residential character. She also noted concerns with removal of the trees to create more parking, and stated that the fence currently existing on the property is not maintained.
- **Elaine Bitner, 16 Eastview Terrace**, stated that the proposed plan will have a negative impact on property values in the neighborhood, and that the church has not been a good neighbor in the past.
- **Michael Divine, 8 Rand Place**, noted skepticism with the Church’s assertion of concern with child safety, and stated that the property should remain as residential property.
- **Mary Menzie, 219 Mendon Centre Road**, stated that she has been a lifelong resident of the Village and a preservationist, and noted concerns with the balance of usage of properties in the Village, demolition of the garage, and anything that diminishes the value of the properties. She stated that there is no compelling reason for the project.
- **Elizabeth Jackson-Renner, 3 Elmbrook Drive**, stated that there is congestion on Rand Place because of the school and the buses, and she suggested that the students be relocated to empty Catholic schools in the City of Rochester.
- **Robert Seidel, 38 Rand Place**, noted the excessive amount of traffic in the area, and stated that the church should deal with the traffic issue.

- **Karen Lenio, 32 Rand Place**, stated that there has been no neighborly affinity from St. Louis Church.

Public Hearing Closed: Chairperson Mitchell closed the public hearing at this time.

Chairperson Mitchell summarized the concerns of the Board:

- Demolition of the garage.
- Widening of the entrance to the parking lot and establishing parking on both sides of the entrance, so that the rear entrance of St. Louis Church appears to be the main entrance and it presents as a parking lot facing a residential street; the appearance of a parking lot is not residential in character.
- Removal of trees at the rear lot line in order to gain parking. These trees provide a sound and sight barrier.
- At the entrance from Rand Place, cars parked on both sides of the driveway at an access point where there are children will eliminate the safety effort of installing a sidewalk.
- Added landscaping in this case would come at the expense of other paved area.
- Excessive amount of paving/hard surface.
- Reduction of residential property lot size, thereby creating a lot that is more substandard than it currently is in a residential area.
- Location of the proposed sidewalk that doesn't serve the needs of the children.

Mr. Turner explained to the applicants that a coordinated review of the environmental issues raised by this project is appropriate under the SEQRA regulations. He stated that they needed to complete the long form (TYPE I) and submit it to the Village Office.

Chairperson Mitchell stated that if the applicants intend to go forward with the application process, the proposal should be modified to reflect these concerns.

Member Items:

- ◆ Mr. Bailey reported that there have been no applications to occupy the former Great Northern Pizza Kitchens building.

Minutes:

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the March 22, 2010 minutes, as drafted.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes; Wallace - yes.

Motion carried.

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

Linda Habeeb, Recording Secretary