

**Village of Pittsford
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – August 22, 2011 at 7:00 PM**

PRESENT:

Chairperson:	Remegia Mitchell
Members:	Sally Chamberlin Meg Rubiano George Wallace (absent) Lili Lanphear
Attorney:	Jeff Turner
Building Inspector:	Edward Bailey
Recording Secretary:	Linda Habeeb

Chairperson Mitchell called the meeting to order at 7:05 P.M.

ZONING BOARD

James Aiello, 21 Lincoln Ave ~ Use Variance

Present: James Aiello, owner; Peter Weishaar, Attorney; Robert Pogel, Real Estate Appraiser

SEQR: Chairperson Mitchell stated that this is a Type I SEQR Action pursuant to SEQR § 617.4(b)(9).

The Secretary read the legal notice that was published in the August 11 2011 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, August 22, 2011 at 7:00 pm, to consider an application made by James A. Aiello, owner of property located at 21 Lincoln Avenue, for (1) A use variance to allow multiple family use in the R-2 Residential District, where single family dwellings only are permitted, pursuant to Chapter 210-11A(1) of the Code of the Village of Pittsford..”*

Discussion: Mr. Weishaar explained that this application seeks a use variance from the requirements of § 210-11 of the Village Zoning Ordinance so that the existing structures located at 21 Lincoln Avenue can be utilized for multi-family occupancy, with three units in the former funeral home and one unit in the carriage house. He reviewed the history of the property, stating that although the use of the property as a funeral home was believed to be a pre-existing non-conforming use, in 1965 the Village Zoning Board of Appeals granted a variance to permit the continued use of the premises for funeral home purposes. In 1968, the Village Board granted a further variance to permit off-street parking at the property, located adjacent to the carriage house. As of January 26, 2010, the property ceased to be used as a funeral home.

Mr. Weishaar further stated that Mr. Aiello applied to the Village Planning Board for approval to subdivide the existing lot into two separate lots, creating a single-family lot on

each of the subdivided lots. On November 22, 2010, the Planning Board voted to deny the subdivision application. As presently zoned, the property may be used as a funeral home or as a single-family residence. The former funeral home has been rendered functionally obsolete as a funeral home due to significant changes that have taken place in the funeral business. The interior of the former funeral home is configured to suit its prior use as a funeral home, and the floor plan is not that of a typical single-family residence.

The applicant stated that although the property has been on the market for over a year, there have been no offers to purchase the entire parcel as a single-family residence or as a funeral home. Mr. Aiello has engaged the services of a commercial appraiser, who concluded that he will not be able to obtain a reasonable return unless a use variance is granted permitting the property to be used for multi-family purposes. Mr. Pogel's appraisal report was submitted for the board's review.

Chairperson Mitchell questioned whether an 8% return on the property was "reasonable." Mr. Pogel explained that there is risk involved in ownership and management of the property, and that an 8% return is not unrealistic.

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

- Susan Judson, 25 Washington Avenue, asked whether the Board would reconsider subdividing the property. Chairperson Mitchell explained that the Board had suggested that the applicant consider relocating the barn to create a larger yard around the primary residence with subdivision as an option.
- Matt Lennarz, 27 Lincoln Avenue, stated that he does not support this application to convert the property into a multi-use residence.
- David Weir, 19 Lincoln Avenue, stated that he does not oppose this application.
- George Dreschler stated his opinion that the property should be occupied by two families, with the owner living on the premises.

Chairperson Mitchell stated that the Board would need further guidance in interpreting this information prior to rendering a decision. She also noted that the 30-day waiting period for the SEQR process has not expired, so the public hearing will remain open.

Pittsford Nursery School, 25 Church Street ~ Special Exception Use

Present: Teresa Zatyko; Bruce Boak, Pastor

SEQR: Chairperson Mitchell stated that this is a Type I SEQR Action pursuant to SEQR § 617.4(b)(9).

The Secretary read the legal notice that was published in the August 11 2011 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, August 22, 2011 at 7:00 pm, to consider an application made by Pittsford Nursery*

School for a special exception use permit to operate a nursery school at 25 Church Street, pursuant to Village Code § 210-26A.”

Discussion: The applicant stated that Pittsford Nursery School is proposing expanding its preschool offering to an afternoon enrichment program. The program will be held Monday – Friday from 12-15 pm until 2:30 pm. She stated that there will be a maximum of 15 students participating in the program, with some students continuing from the morning program. The classes will be held at staggered times, and there will be no buses dropping off or picking up students.

Chairperson Mitchell explained that the Board will consider the effect that this program will have on the flow of traffic and the impact on the neighborhood of this residential street. She requested that the applicants maintain a log of the number of students and classes, and the arrival and departure times of the students.

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.

SEQR: The applicant previously completed Part 1 of the long form SEQR. It was mailed to interested and involved agencies on August 11, 2011, along with the request from the Board to act as lead agency for this process.

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

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Board Members completed Part 2 of the SEQR Environmental Assessment Form.

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

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the application for a special use permit, as submitted, with the conditions that (1) the applicant will maintain a log of the students’ classes and their arrival and departure times; (2) there will be no buses dropping off or picking up students; and (3) the Board will review this application in 6 months.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Findings of Fact:

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

St Louis Church, 21 Rand Place ~ Area Variance

Present: Sally Schrecker, Operations Manager; Brendan Bystrack, LaBella Associates; John Mancuso, Harris Beach

SEQR: Chairperson Mitchell stated that this is a Type I SEQR Action pursuant to SEQR § 617.4(b)(9).

The Secretary read the legal notice that was published in the August 11 2011 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, August 22, 2011 at 7:00 pm, to consider an application made by St. Louis Church of Pittsford, located at 21 Rand Place, for an area variance to create a lot with the average depth of less than 150 feet, pursuant to Chapter 210-12 E of the Code of the Village of Pittsford.”*

Discussion: Mr. Mancuso stated that this area variance application is intended to supplement two current applications pending before the Village Planning Board and Zoning Board of Appeals, which applications request site plan approval and extension of the existing special exception use for property located at 21 Rand Place and 52-64 South Main Street in the Village of Pittsford. As part of the pending applications, St. Louis Church has requested that the westerly boundary line of the 21 Rand Place parcel be shifted east 16.77 feet at the southerly lot line and 19.29 at the northerly lot line, which will require both site plan approval and modification of St. Louis’ existing special exception use permit. The pending applications are incorporated into this area variance application by reference. Mr. Mancuso submitted documentation addressing the area variance criteria.

Chairperson Mitchell stated that the requested variance is not related to the safety issues. She further stated that in response to the applicant’s assertion that granting this variance will have no effect on the character of the neighborhood, it is her opinion that the change of lot line will have a negative influence on the area, as it changes the character of the neighborhood. She also stated that the safety concerns can be achieved by other methods within the existing boundary lines of the property. She further referenced a letter sent from the State Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP), which states that “the removal of the landscape will dramatically diminish the setting of the buildings on Rand Place, which is a protected character-defining feature in the historic district.”

Chairperson Mitchell stated that the Board could consider granting a variance to reduce the required number of parking spaces by five that would be lost when installing the sidewalk along the driveway. She further noted that there are currently approximately 30 car park spaces on Main Street and Rand Place that could accommodate some of the cars.

Mr. Mancuso stated that the letter from the Field Services Bureau contains inaccuracies, and he referenced a letter he sent addressing these inaccuracies. He stated that the proposal to install the walkway entirely on the church campus would require no lot line adjustment of Rand Place and no extension of the special use permit; only site plan approval would be required. He stated that the applicants request that the Board vote on the application as it was submitted.

Mr. Turner stated that the Zoning Board has the authority to grant a lesser variance than the variance that was requested.

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

- Jim Huffman, 5 Elmbrook Drive, stated that he is in favor of Chairperson Mitchell's proposal for a reduced area variance.
- Hendrina Schindler, Rand Place, stated that changes to the lot line will impact the residential character of the neighborhood.
- Robert Seidel, 38 Rand Place, stated that the neighbors have no animus toward the church.
- Alison Huffman, 5 Elmbrook Drive, thanked the board for explaining the criteria for granting an area variance.

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

SEQR: The applicant previously completed Part 1 of the long form SEQR. It was mailed to interested and involved agencies on August 15, 2011, along with the request from the Board to act as lead agency for this process.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, declaring the Zoning Board as lead agency for SEQR review for the area variance.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Motion: Chairperson Mitchell made a motion, seconded by Member Lanphear, declaring the Zoning Board as lead agency for SEQR review for the lot line change and the special use permit.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

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

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to grant an area variance for a reduction of five parking spaces and a modification of the special use permit to allow the reduction of those five parking spaces.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve certain elements of the preliminary site plan, as submitted on 6/27/11, to include, and be limited to (1) the sidewalk; (2) the wall length modification; (3) the landscaping along the sidewalk and perimeter of the existing school building; (4) modification of the driveway with the elimination of the parking spaces; (5) the lighting to remain open, conditioned on the filing of a final site plan and snow storage removal plan for the entire site.

Vote: Chamberlin – yes; Mitchell – yes; Lanphear – yes; Rubiano – yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on August 22, 2011.

Findings of fact to be completed and included by way of an addendum of these minutes.

Minutes:

Motion: Chairperson Mitchell made a motion, seconded by Member Chamberlin, to approve the 7/25/11 meeting minutes, as drafted.

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

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

Linda Habeeb, Recording Secretary