

**Village of Pittsford
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – October 24, 2011 at 7:00 PM**

PRESENT:

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

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

ZONING BOARD

Robert and Elizabeth Edwardsen, 21 Courtenay Circle ~ Area variance

Present: Phil Hart, Patio Enclosures

The Secretary read the legal notice that was published in the October 13, 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, October 24, 2011 at 7:00 pm to consider an application made by Robert and Elizabeth Edwardsen, for property located at 21 Courtenay Circle, for (1) An area variance to enlarge a structure on a non-conforming lot in the R-1 Residential District, said lot having a width of 59.43 feet at the street where a width of 100 feet is required, pursuant to Chapter 210-6 of the Code of the Village of Pittsford.”*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.15(c)(13).

Discussion: Mr. Hart stated that the applicants are proposing to enlarge the existing sunroom on the rear of the house in order to install an “endless pool” in the sunroom. He submitted documentation indicating the dimensions of the extended sunroom, and a survey map showing the location for the addition.

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

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

Motion: Member Rubiano made a motion, seconded by Chairperson Mitchell, to approve the application for an area variance for installation of an addition, as submitted.

Vote: Chamberlin – yes; Mitchell – yes; Rubiano – yes; Wallace - yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 24, 2011.

Findings of Fact:

- This is a pre-existing non-conforming lot. The proposed addition does not further encroach on the non-conforming setback.
- The proposed addition does not extend beyond the existing rear side setback of the house.
- There are no undesirable changes that will be produced in the character of the neighborhood by granting this area variance.
- The variance 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 variance.
- The requested variance is not substantial.

**Bryan & Cristina Lanahan, 26 Locust Street ~ Area variance
Present: Cristina Lanahan**

The Secretary read the legal notice that was published in the October 13, 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, October 24, 2011 at 7:00 pm to consider an application made by Bryan and Cristina Lanahan, owner of property located at 26 Locust Street, for the following variance: An area variance to expand a pre-existing non-conforming structure on a pre-existing non-conforming lot, said structure having a front setback of 19.4 feet where 30 feet is required, and a side setback of 9.9 feet where 10 feet is required; and said lot having an area of approximately 9,967 square feet where 10,500 square feet is required, and an average depth of 126.25 feet where 150 feet is required, pursuant to Chapter 210-6D of the Code of the Village of Pittsford: Extension of non-conforming buildings, structures, lots or uses.”*

SEQR: Chairperson Mitchell stated that this is a Type II SEQR Action under SEQR § 617.15(c)(13).

Discussion: The applicant stated that she is proposing an extension to an existing sun porch on the north façade of the house, and a new mudroom off the kitchen. She presented elevation drawings of the proposal and a survey map showing the location for the proposed addition. Chairperson Mitchell noted that the proposal will also require APRB approval.

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

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

Motion: Member Wallace made a motion, seconded by Member Chamberlin, to approve the application for an area variance for installation of an addition, as submitted.

Vote: Chamberlin – yes; Mitchell – yes; Rubiano – yes; Wallace - yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 24, 2011.

Findings of Fact:

- This is a pre-existing non-conforming lot. The proposed addition does not further encroach on the non-conforming setback.
- There are no undesirable changes that will be produced in the character of the neighborhood by granting this variance.
- The variance 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 variance.
- The requested variance is not substantial.

PLANNING BOARD

John Caselli, 9 East Jefferson Road ~ Site Plan

Discussion: This is a continuation of an open public hearing for construction of a three-car garage in the rear of the property, located at 9 East Jefferson Road. Board members reviewed the submitted plans. Chairperson Mitchell expressed concern with the size and depth of the proposed garage, but noted that it will be located far enough behind the house that it will be minimally visible from the street. Some Board members noted concerns with the possibility of residents of the house parking vehicles on the lawn. Member Wallace questioned the appropriateness of the Board's prohibiting residents from parking on their lawns.

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

Public Hearing Closed: Chairperson Mitchell closed the public hearing, 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 for construction of a garage, as submitted, with the condition that the revised driveway must meet Village Code requirements for width and lot coverage, and no parking will be permitted on non-driveway areas.

Vote: Chamberlin – yes; Mitchell – yes; Rubiano – yes; Wallace - yes. **Motion carried.** The decision was filed in the Office of the Village Clerk on October 24, 2011.

Findings of Fact:

- The house is a two-family home.
- The proposed garage is a one-story structure.
- There are no undesirable changes that will be produced in the character of the neighborhood by approving this site plan.
- The site plan 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.
- The requested site plan approval is not substantial.

ZONING BOARD

James Aiello, 21 Lincoln Ave ~ Use Variance

Present: James Aiello, owner; Lucian Morin II, McConville, Considine, Cooman & Morin; Robert Pogel, Real Estate Appraiser

Discussion: Mr. Morin 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. As presently zoned, the property may be used as a funeral home or as a single-family residence. The applicant has indicated that 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.

Board members and the applicants discussed a letter from J. Michael Smith, of the Cabot Group, which reviewed the Summary Appraisal Report for 21 Lincoln Avenue, prepared by Robert Pogel. Mr. Morin stated that the conclusion to be drawn from the letter is that the rate of return determined is consistent with that which Mr. Pogel determined.

Chairperson Mitchell stated that the Board needed to determine whether the projected rate of return was realistic, and whether a prudent investor would invest in the property given the likely rate of return as recalculated by Mr. Smith. Mr. Pogel explained that due to the fact that this house was used as a funeral home, there is a stigma attached to the property. Chairperson Mitchell stated that the Board will consider whether the reasonable rate of return on rental property with four units, as presented, could provide the applicant with the return he is hoping for.

Mr. Turner stated that according to Mr. Smith's analysis, and even according to Mr. Aiello, who indicated that a 10.14% return could only happen if everything went right, a 10% return is not likely to happen, and therefore, no prudent investor will attempt a 4-unit conversion. In addition, the use variance statute does not require a return expected by a prudent investor, it merely requires a reasonable return. An analysis of single-family rentals, based on the data supplied by Mr. Pogel and available through the assessor's office and Monroe County Clerk's office, a reasonable rate of return for the rental of a single-family residence in the Village is between 3% and 6%. Based on this, a return of 5.18% is a reasonable rate of return.