

**Village of Pittsford
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – August 27, 2012 at 7:00 PM**

PRESENT:

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

Member Lanphear called the meeting to order at 7:00 P.M.

ZONING BOARD

Peter Messner, 19 Monroe Avenue ~ Sign

Present: Peter Messner, business owner

The Secretary read the legal notice that was published in the August 16, 2012 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 27, 2012 at 7:00 pm to consider an application made by Peter Messner, for property located at 19 Monroe Avenue, for installation of a freestanding directional sign, pursuant to Village Code § 119-7(F)(5).”*

SEQR: Member Lanphear stated that this is a Type I SEQR Action under SEQR § 617 .5(c) #9.

Discussion: Member Lanphear opened the public hearing, and explained that it has been determined that a coordinated review of the environmental issues raised by this project is required under the SEQR regulations. Upon receipt of a completed Environmental Assessment form and 20 copies of the proposed plans, the Village Office will forward copies of the SEQR application and plans to the appropriate agencies. The Village is required to allow a 30-day agency response time for SEQR review. The Public Hearing will remain open and be continued at the September 26th PZBA meeting.

Paul Zachman, 5 Stonegate Lane ~ Area variances

Present: Paul Zachman

The Secretary read the legal notice that was published in the August 16, 2012 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 27, 2012 at 7:00 pm to consider an application made by Paul Zachman, as agent for Mike & Alice Smith, for property located at 5 Stonegate Lane, for:

1. An area variance for the extension of a non-conforming structure, said structure having a side setback of 14.07 feet where 15 feet is required, pursuant to Chapter 210-6 of the Code of the Village of Pittsford, and
2. An area variance to construct a porch with a rear setback of 24.45 feet where 35 feet is required, pursuant to Chapter 210-9D of the Code of the Village of Pittsford.

SEQR: Member Lanphear stated that this is a Type I SEQR Action under SEQR § 617.5(c) #13 & 15.

Discussion: Mr. Zachman stated that the proposal is for construction of a screened porch structure extending 14'5" off the rear of the property, located at 5 Stonegate Lane. He stated that the rear of the house is 38.95' from the rear property line, with a required 35' rear setback. The proposed porch would extend to 24.45' from the rear property line, resulting in an encroachment of 9.55' into the required rear setback line. Board members discussed the proposal for removal of the existing wood deck and bench structure, reframing a new porch floor structure, and converting the remaining area covered by the former deck to a brick patio surface.

Public Hearing Opened: Member Lanphear opened the public hearing at this time.

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

Motion: Member Chamberlin made a motion, seconded by Member Wallace, to approve the application, as submitted, with the condition that the existing 6-foot-fence in the rear of the property remain.

Vote: Chamberlin – yes; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Findings of Fact:

- The area is minimally visible from the public way.
- There are no undesirable changes that will be produced in the character of the neighborhood by approving this area variance.
- The area 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.
- The difficulty is self-created, but this does not preclude approval.

Greg Barkstrom, 15 State Street ~ Lighting

Present: Jay Whitbourne

Discussion: At the June PZBA meeting, the lighting site plan was approved, with the exception of the fixture on the west side of the building at the bottom of the stairs, identified as a security light on the site plan dated 6/25/12. Board members reviewed the

photometrics plan for a security light submitted by the applicant. He stated that the light will have a wattage of 29 and will have a timer that will turn off at 10 pm.

Member Lanphear reviewed the criteria for granting an area variance.

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

Motion: Member Lanphear made a motion, seconded by Member Chamberlin, 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; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.

Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Motion: Member Wallace made a motion, seconded by Member Chamberlin, to approve the lighting plan, as submitted, with the conditions that the light will be turned off not later than 10 pm, and the wattage of the light will not exceed 29 watts.

Findings of Fact:

- Safety and security are the primary concerns for this additional lighting request.
- The property is adjacent to another retail business and across the street from the public library, where there are similar hours of operation; Therefore, this lighting will not adversely impact surrounding structures or inhabitants.
- There are no undesirable changes that will be produced in the character of the neighborhood by approving these portions of the site plan.
- The approved elements of the lighting 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 other feasible method.

PLANNING BOARD

John Del Monte, 41 North Main Street ~ Site Plan

Present: John Del Monte, owner; Christopher Lopez, Mark Pandolf, Architects

SEQR: Member Lanphear stated that this is a Type I SEQR Action under SEQR § 617 .5(c) #9.

Discussion: Board members reviewed the plan for proposed renovations to the Erie Grill at the Del Monte Lodge, which include the reconfiguration of the dining area, bar, and west entrance, installation of two window bay projections, enclosing the existing vestibule, renovation of the stair and landing, provision of exterior seating areas for benches, expansion of the existing planting bed, and provision of a clearly defined crosswalk from the canal path to the restaurant entrance. He stated that the APRB approved the plans for the additions.

Public Hearing Opened: Member Lanphear opened the Public Hearing at this time.

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

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

Motion: Member Lanphear made a motion, seconded by Member Chamberlin, 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; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Motion: Member Rubiano made a motion, seconded by Member Wallace, to approve the site plan, as submitted, with the condition that the two existing speed humps be incorporated into the crosswalk.

Vote: Chamberlin – yes; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Member Items:

- ◆ Grove Street parking: A resident called the Village Office to report that customers of the music school in the Pickle Factory have not been complying with the conditions of their special permit. The Building Inspector stated that business owner had been notified, and the problem has been alleviated.
- ◆ Member Rubiano stated that it appears that there are an excessive number of outside seats at Yotality.
- ◆ Trustee Galli reported that the Board of Trustees granted a SEQR negative declaration for 75 Monroe Avenue.
- ◆ Board members reviewed the revised findings of fact for St. Louis Church.

Motion: Member Rubiano made a motion, seconded by Member Chamberlin, to adopt the findings of fact for St. Louis Church, as revised.

Vote: Chamberlin – yes; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Minutes:

Motion: Member Rubiano made a motion, seconded by Member Wallace, to approve the 7/23/12 meeting minutes, as written.

Vote: Chamberlin – abstain; Lanphear – yes; Rubiano – yes; Rosenberg – yes; Wallace - yes.
Motion carried. The decision was filed in the Office of the Village Clerk on August 27, 2012.

Adjournment: There being no further business, Member Lanphear adjourned the meeting at 8:00 pm.

**JOINT FINDINGS OF THE VILLAGE OF PITTSFORD
PLANNING BOARD AND ZONING BOARD
OF APPEALS REGARDING THE APPLICATIONS OF
ST. LOUIS CHURCH DATED JUNE 10, 2012, APRIL 6, 2011,
AND AUGUST 3, 2011**

A series of hearings was held with regard to the June 10, 2010 applications on June 28, 2010; July 27, 2010; and August 30, 2010. At the close of the public hearing on August 30, 2010, the applicant revised the plan to request a five foot wide sidewalk rather than a six foot wide sidewalk, and the Planning Board and Zoning Board of Appeals, voting jointly and unanimously, denied the applications as submitted.

A series of hearings was held with regard to the April 6, 2011 applications on April 25, 2011; May 23, 2011; May 31, 2011; June 27, 2011; July 25, 2011; and August 22, 2011. A hearing was held on August 22, 2011 with regard to the August 31, 2011 application. At the close of the public hearing on August 22, 2011, the Zoning Board of Appeals voted unanimously to appoint itself lead agency with regard to SEQRA. The Zoning Board of Appeals voted unanimously that following SEQRA review, a conditional negative declaration was appropriate. The Zoning Board of Appeals voted unanimously to grant a further area variance to the applicant, allowing for a reduction of five parking spaces on the site. The Zoning Board of Appeals voted unanimously to grant a modification of the applicant's Special Permit to allow for a reduction of five parking spaces. The Planning Board unanimously voted to approve certain requested elements of the preliminary site plan 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 with the lighting to remain open conditioned on the filing of a final site plan and snow storage renewal plan for the entire site.

FINDINGS OF FACT

1. The building permit for the St. Louis School, located at 11 Rand Place in the Village of Pittsford, New York, was issued in March of 1955.
2. The building permit for the St. Louis Church of Pittsford, located at 64 South Main Street in the Village of Pittsford, New York, was issued in July of 1956.
3. The Village of Pittsford Zoning Ordinance was adopted in December of 1956.
4. The St. Louis Church and School of Pittsford, located at 64 South Main Street in the Village of Pittsford, New York, is situated in the R-2 residential district of such Village.
5. In a decision following the March 16, 1964 meetings of the Zoning Board of Appeals, and based upon the application of the St. Louis Church of Pittsford, a Special Exception Use Permit was granted pursuant to the Zoning Ordinance of the Village of Pittsford.

6. In 1964, St. Louis Church of Pittsford applied to expand the onsite buildings to include classrooms, a teaching addition, and an auditorium. That application was granted.

7. In 1965, St. Louis Church of Pittsford applied for another expansion to include a classroom and gymnasium. That application was granted.

8. In 1966, St. Louis Church of Pittsford applied for an addition. That application was granted.

9. In 1975, St. Louis Church of Pittsford applied for a further addition. That application was granted.

10. In 1977, St. Louis Church of Pittsford acquired 64 South Main Street in the Village of Pittsford.

11. In 1978, St. Louis Church of Pittsford applied for permission to put a parking lot on 64 South Main Street, together with other site improvements. That application was denied. No appeal was taken.

12. In 1980, St. Louis Church of Pittsford again applied for a parking lot at the 64 South Main Street property, together with the construction of a playground and the use of the 64 South Main Street building as a convent. That application was denied.

13. St. Louis Church of Pittsford commenced an Article 78 proceeding and the Court overturned the Village's denial.

14. On remand, the Village approved St. Louis Church of Pittsford's entire request with exception of the parking lot.

15. St. Louis Church of Pittsford then again commenced an Article 78 proceeding with regard to that decision. The Supreme Court overturned that decision as well, permitting St. Louis Church of Pittsford to have a parking lot at 64 South Main Street.

16. In 1991, St. Louis Church of Pittsford applied for the construction of a 2,000 square foot gathering area for worshippers. That application was granted.

17. In 1999, St. Louis Church of Pittsford applied for a 3,500 square foot addition to the church building located on Main Street. The stated purpose for the expansion was the pressure resulting from the nationwide decrease in the number of priests. This expansion was supposed to allow a reduction from six weekend Masses to four weekend Masses.

18. That application was denied.

19. St. Louis Church of Pittsford again commenced an Article 78 proceeding challenging that decision. That lawsuit was eventually settled, with the Village granting the expansion conditioned upon St. Louis Church of Pittsford's representation that they would

utilize the Elderberry Express and the Pittsford Recreation parking lot to handle the anticipated increase in parking that would result from that expansion.

20. Despite reporting a ten percent reduction in membership since the year 2000, St. Louis continues to operate with six Masses per weekend, not the four that were represented as being planned in 2000. Obviously the stated purpose for the 3,500 square foot expansion was not the actual purpose.

21. This lawsuit with regard to the August 30, 2010 and August 22, 2011 decisions is the fourth time in the last 32 years that St. Louis Church of Pittsford has sued the Village of Pittsford.

22. There are four other religious institutions that use property in the Village of Pittsford for religious uses. Not one of those churches has ever sued the Village of Pittsford.

23. South Main Street and Rand Place are included as part of the Pittsford Village Historic District, listed on the National Register of Historic Places on September 7, 1984. The nomination describes the Hargous-Briggs House as “one of Pittsford’s best most sophisticated examples of the Federal style.” The house is historically associated with Augustus Elliot, one of Pittsford’s most prominent early settlers. The other houses owned by St. Louis Church of Pittsford on South Main Street, the house owned by it at 21 Rand Place, as well as virtually all of the abutting properties, have architectural and/or historical significance.

24. One of the general purposes of the Zoning Code of the Village of Pittsford is set forth in § 210-57. This section states the following: Pursuant to the provisions of Section 96-a and Article 5-k of the New York State General Municipal Law, it is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of buildings, structures, places, and sights of historic, cultural, or aesthetic value is a public necessity and purpose in the Village of Pittsford.

25. The Village of Pittsford is only a little over two-thirds (2/3) of a square mile in size.

26. Because of this small size, it is extremely important to balance and control the religious and education uses in the Village with the protection of the residential use and nature of the Village. **What might be an insignificant lot line shift in a suburban setting is a substantial change in an urban Village setting.**

27. Throughout its history, the Village has attempted to weigh the proposed expansion of religious and educational uses in relation to the neighboring residential land uses, and to cushion any adverse affects with the imposition of conditions designed to mitigate them.

28. The St. Louis Church and School campus is located in the heart of the Historic District and the R-2 residential district.

29. As set forth above, the Village of Pittsford has historically attempted to balance religious use expansion with the impact of that expansion on the historic resources of the Village and the surrounding residential use.

30. As set forth above, there are five religious institutions which utilize property for religious purposes in the Village of Pittsford.

31. Unlimited religious expansion, in such a small Village, will adversely affect both the historic resources and the residential character of the Village.

32. All of the church uses in the Village are located in the R-2 Zone.

33. If all of the religious institutions who utilize property in the Village of Pittsford were permitted to expand to the size of the current St. Louis Church of Pittsford campus, approximately 17% of the R-2 Zone in the Village of Pittsford would be devoted to religious use.

34. Therefore, the need to control such expansion is obvious. Where the expansion provides a significant benefit to the religious or educational use, it must be granted. Where the expansion provides no real benefit to religious or educational use, it should be denied.

35. As a result of the last litigation in 2000, St. Louis Church of Pittsford was permitted to operate with 178 parking spaces, which is less than would be required by the Zoning Ordinances of the Village. However, those 178 spaces are exponentially more than the onsite parking spaces of any other church located in the Village. The Episcopal Church, which has a similar size worship area, has no onsite parking.

36. St. Louis Church of Pittsford reported that it has experienced a 10% decline in its membership since 2000. In terms of relating this to parking spaces, this reduction in membership means 17 fewer spaces would be required.

37. In the year 2000, St. Louis reported an average weekend attendance of 2,233 people. Based upon its 10% decline since then, its average weekly attendance should be approximately 2,000 people. Since St. Louis has six masses on the weekend, average mass attendance would be 333 plus 28 choir members totaling average attendance of 361. At the Village Code Rate of three people per vehicle, this average attendance would require 121 parking spaces. While some services are more heavily attended than others, the 178 spaces will accommodate 506 attendees and 28 choir members.

38. There are currently parking spaces available nearby on Rand Place, on Main Street, and on the Church site itself during school hours and church services.

39. The stated purposes of both the 2010 and 2011 applications were (1) to improve the line of sight for automobiles exiting the St. Louis Church of Pittsford parking lot onto Rand Street; and (2) to improve pedestrian safety by constructing a concrete walkway from Rand Street through the parking lot to the Church and School buildings.

40. The line of sight safety concern is clearly evident from the current physical layout of the subject driveway.

41. While the pedestrian safety concern may be a real one, it is questionable whether the requested sidewalk will, in fact, assist with pedestrian safety.

42. No data was provided by the applicant demonstrating whether pedestrians will actually use the sidewalk, and if so, how many of them would do so.

43. Nonetheless, it is clear from all of the data available to the Board and based upon the representation of the applicant's own architect, that the remediation of both safety concerns can be accomplished within the current footprint of St. Louis Church of Pittsford.

44. Both applications involved the relocation of a lot line of the 21 Rand Place parcel, which would result in, with regard to the first application, a 13% reduction in lot size and with the second application, a 14% reduction in lot size. Such reductions in lot size would have an obvious negative impact on the property value of 21 Rand Place itself and a ripple affect with regard to the property values of the surrounding residential properties.

45. A real estate appraiser with 28 years of experience opined that the substantial lot reduction requested by St. Louis for the 21 Rand Place parcel would have a negative impact on both the fair market value of 21 Rand Place and the surrounding residential properties.

46. Since the five parking spaces which were at issue in each application appeared to be unnecessary to the religious and/or school use, then the relocation of either of the lot lines would result in an unnecessary encroachment into the residential area.

47. The reduction of residential lot size in order to pave for parking is not in keeping with the goal of retaining the residential character of the Village.

48. Since a lot line change is permanent, the nature, duration and intensity of the proposed expanded use would not be in harmony with the nearby residential uses, and would alter the special character of the neighborhood and would be detrimental to the residents thereof.

49. Both of the proposed expansions would create a hazard to the health, safety and general welfare of the neighboring community because the clear boundary, existing delineation and screening between the residential and non-residential areas would be blurred.

50. The St. Louis Church of Pittsford religious and educational use has been permitted to increase substantially since the grant of the first permits in 1955 and 1956.

51. The record for both the 2010 and 2011 applications contained specific detailed oral and written statements from both neighbors of the 21 Rand Place parcel and the general public as follows:

- a. **The first plan involved the demolition of a brick wall which provided a clear barrier between the Church and church parking and the residential area;**
- b. **The reduction in size of a large lot in a residential area, where such large lots are rare in the Village, would have a substantial negative impact on neighboring property values.**
- c. **Each application would result in a reduction of green space in the Village of Pittsford.**
- d. **There is a large inventory of off-site parking nearby and available to people utilizing both the Church and the School.**
- e. **Unnecessary paving over a residential area is not in the best interest of the Village.**
- f. **Based upon numerous site visits and meetings, it was apparent that there was sufficient room on the current St. Louis footprint for the remediation of St. Louis' two substantial safety concerns.**
- g. **The steady increase of the conversion of residential properties to institutional uses adversely affects the enjoyment by the residents of the residential neighborhood and negatively impacts on the resale value of adjoining properties.**
- h. **All of the other churches in the Village have vastly insufficient onsite parking, but their parking needs are reasonably met by the available public parking and on street parking.**
- i. **The St. Louis parking lot is very rarely full during church services. Most attendees park on adjoining residential streets so as not to get caught in the parking lot at the conclusion of services.**
- j. **The first plan opened up the view of the Rand Place campus and therefore substantially changed the residential viewshed of Rand Place, replacing it with a view of the Church and Reddington Hall.**
- k. **The fabric of the residential nature of the Village is imperiled by expansion of non-residential uses into the residential area.**
- l. **The brick wall, scheduled for demolition in the first application, provides a current noise buffer between the St. Louis campus and the Rand Place residential neighborhood.**
- m. **There is room for available parking on the south side of Reddington Hall. This would provide St. Louis with the ability to retain the same number of**

parking spaces that it currently has while remediating the safety concerns without expanding further into the residential area.

n. The second application would eliminate 24 mature trees which currently provide effective screening between the St. Louis campus and the Rand Place residential neighborhood. There is no possibility that any replacement plantings by St. Louis would achieve anywhere near that level of screening.

o. The diminution of the rear yard at 21 Rand Place anticipated by the second application would substantially reduce the viability of 21 Rand Place as a residential property.

p. Very few of the Church attendees actually reside in the neighborhood, or even the Village, so there would be no actual benefit to the neighborhood or the Village as a result of either expansion.

52. Neither the 2010 nor the 2011 application by St. Louis Church was for the purpose of obtaining an initial Special Use Permit to establish a religious and/or educational use in the Village of Pittsford. Rather, each application was for the purpose of expanding a current religious and educational specially permitted use.

53. Such expansions are not entitled to the presumption that the benefit to the community outweighs any possible adverse impact.

54. Rather, when examining and deciding upon the appropriateness of a request for the expansion for a religious and/or educational use, the Board is required to weigh the proposed use in relation to neighboring land uses, and to cushion any adverse effect by the imposition of conditions designed to mitigate them.

FIRST APPLICATION

Expansion of Special Use Permit Pittsford Village Code § 210-113 B. (2)

55. The 2010 application appeared to have as its goal the establishment of a vastly larger street presence on Rand Place as opposed to the manner in which the current configuration blends into the residential character of Rand Place. **Obviously, such an increased street presence would alter the essential character of the neighborhood and be detrimental to the residents thereof.**

56. Historic Pittsford is a statewide recognized and honored organization. Historic Pittsford is chartered by the New York State Department of Education and was recognized with an award for its Architectural Consultation Underwriting Program by the Preservation League of New York State. Historic Pittsford recommended against this proposed lot line change.

57. Historic Pittsford recommended against the expansion, stating:

- Permitting such a lot line change resulting in the reduction of the residential neighborhood for non-residential use could have a long-term, negative, precedential impact.

- **Continued expansion of pavement and loss of residential properties results in loss of quality of life.**

58. **At the August 30, 2010 Pittsford Planning and Zoning Board of Appeals meeting, the applicants' engineer acknowledged that there was a site plan which would allow the applicant to meet and remediate its two important safety concerns within the current footprint of the St. Louis parcel without the need for moving a lot line and expanding the St. Louis Special Use Permit.**

59. **Based upon this representation by the applicants' own architect, the Zoning Board of Appeals gave the applicant the opportunity to consider a modification of the plan that would allow for all of the corrective safety measures to occur within the present St. Louis campus.**

60. **The applicant refused to consider such an alternative approach, and requested that the Board vote with regard to the present application with a modification of the sidewalk width from six feet to five feet.**

61. **Based upon the above representation of the applicant's architect, and the applicant's refusal to consider alternative methods of remediation, the Board denied the request for the expansion of St. Louis' Special Use Permit based upon the following:**

a. **Since the expansion of the Special Use Permit required by the move of the lot line was not required in order to meet St. Louis' safety concerns, the depreciation in value of the subject parcel and adjacent residential properties required the denial of the requested expansion of the Special Use Permit.**

b. **Since the requested lot line relocation was not necessary to the accomplishment of St. Louis' safety concerns, the further encroachment of the religious use into the residential area which would negatively affect the general welfare of the community was denied.**

c. **Since the expansion of the Special Use Permit which would be required by the requested lot line change would have a negative impact on the essential character of the neighborhood, the expansion of such Special Use Permit was denied.**

d. **There was absolutely no proof from the applicant or any other source regarding how the five spaces that St. Louis was attempting to retain with the lot line relocation would be of benefit to its religious or educational use. In the absence of such proof, the Planning and Zoning Board of Appeals were entitled to conclude that**

those five spaces provided no additional benefit to St. Louis' religious and educational uses.

e. In balancing the needs of St. Louis to remediate its two substantial safety concerns with the potential impact on neighboring land uses of the proposed lot line change, denial of the lot line change was an appropriate condition since that lot line change was only required to retain five parking spaces which added no benefit to the furtherance of St. Louis' religious and educational uses.

Site Plan Review

62. Since it was appropriate to deny St. Louis' requested expansion of its Special Use Permit, and since the site plan required that lot line change, then the denial of the expansion of St. Louis' Special Use Permit made moot any further consideration of its request for a site plan modification.

SEQRA

63. Since the Board was taking no affirmative action nor changing the status quo, then completing SEQRA review for the first application was not required.

SECOND APPLICATION

Area Variance NY State Village Law § 7-712-b 3. and 4.

64. As a result of the elimination of the screening provided by the 24 mature trees on the northerly property line of 21 Rand Place, the diminution in the value of 21 Rand Place itself, the diminution of the value of the adjoining properties resulting from that reduction in value, the elimination of additional green space in the Village, the elimination of the clear delineation between the residential area and the church and educational use areas, and the utilization of more residential property for non-residential uses, the proposed area variance would produce an undesirable change in the character of the neighborhood and would be a detriment to nearby properties.

65. Since the applicants' own architect acknowledged that the safety concerns could be remediated in the current footprint of the St. Louis Church and School, it is clear that the benefits sought by St. Louis could be achieved by some method, certainly feasible for the applicant, other than the area of variance that is sought.

66. A 14% reduction in lot size and a substantial reduction of a rear yard is a very substantial impact in an urban village environment.

67. For the reasons set forth in paragraph 64, the proposed variance will result in an adverse impact on the physical and environmental conditions of the neighborhood.

68. Perhaps most importantly, there was no proof regarding how the requested variance would benefit the subject parcel. The sole purpose of the requested variance was to benefit the St. Louis Church and School, the current owner of the adjoining parcel. In other words, the benefit sought was personal for St. Louis Church and School, and did not actually result in any benefit to 21 Rand Place. No variance can be granted where the benefit sought is personal and not for the benefit of the subject parcel.

The Five Parking Space Reduction Variance NY State Village Law § 712-b 3.

69. The lot line relocation required by the second application required the granting of an area variance. In considering any application for an area variance, the Zoning Board of Appeals is required to grant the minimum variance that it shall deem necessary and adequate, and at the same time, preserve and protect the character of the neighborhood, and the health, safety and welfare of the community.

70. A five parking space reduction is a much more minimal variance than a lot line change. The five space reduction variance lasts only as long as a church and school operate at the site. A lot line change lasts forever.

71. In granting a five parking space reduction variance as opposed to the west lot line relocation variance, the Zoning Board of Appeals determined that the safety benefit sought by the applicant would be met with no detriment to the health, safety and welfare of the neighborhood or community.

72. The five parking space reduction variance would not result in an undesirable change to the character of the neighborhood, or be a detriment to nearby properties because there would be no discernible impact on the neighboring properties.

73. The area variance which was granted was not substantial in that it results in a reduction of the number of available parking spaces onsite from 178 to 173, which is only a 2.8% reduction. There are available spaces on Rand Place, Main Street, and the campus itself during church and school hours.

74. There will be no adverse impact on the physical and environmental conditions of the neighborhood because all of the improvements and changes will be occurring within the current footprint of the St. Louis Church of Pittsford parcel and will continue to be adequately screened by the existing improvements on both the church parcel and 21 Rand Place.

75. The issue of whether or not the situation is self-created is irrelevant in that the safety concerns sought to be addressed are worthy of resolution.

Expansion of Special Use Permit Pittsford Village Code § 210-113 B.(2)

76. The New York State Office of Parks, Recreation and Historic Preservation recommended against the lot line change required by the second application.

77. Historic Pittsford recommended against the expansion, raising concerns with regard to the following:

- Maintaining a balance between residential and other uses of properties that share a neighborhood;
- Moving residential property lines for non-residential purposes encroaches on residential space and sets a precedent that may have a long-term, negative impact;
- Removing a line of mature trees that provides a buffer at the rear of 21 Rand Place and screens the St. Louis property from the residential neighborhood.
- In addition, in its May 16, 2011 letter, Historic Pittsford referenced and incorporated the same concerns that it had set forth with regard to the first application (see paragraph 57 herein).

78. The Board denied the request for the expansion of St. Louis' Special Use Permit based upon the following:

- a. Since the expansion of the Special Use Permit required by the move of the lot line was not required in order to meet St. Louis' safety concerns, the depreciation in value of the subject parcel and adjacent residential properties required the denial of the requested expansion of the Special Use Permit.
- b. Since the requested lot line relocation was not necessary to the accomplishment of St. Louis' safety concerns, the further encroachment of the religious use into the residential area which would negatively affect the general welfare of the community was denied.
- c. Since the expansion of the Special Use Permit which would be required by the requested lot line change would have a negative impact on the essential character of the neighborhood, the expansion of such Special Use Permit was denied.
- d. There was absolutely no proof from the applicant or any other source regarding how the five spaces that St. Louis was attempting to retain with the lot line relocation would be of benefit to its religious or educational use. In the absence of such proof, the Planning and Zoning Board of Appeals were entitled to conclude that those five spaces provided no additional benefit to St. Louis' religious and educational uses.
- e. In balancing the needs of St. Louis to remediate its two substantial safety concerns with the potential impact on neighboring land uses of the proposed lot line change, denial of the lot line change was an appropriate condition since that

lot line change was only required to retain five parking spaces which added no benefit to the furtherance of St. Louis' religious and educational uses.

Modification of Special Use Permit Pittsford Village Code § 210-113 B.(2)

79. Permitting St. Louis Church and School to operate with five fewer parking spaces than that which was agreed in 2000 required the modification of St. Louis Church's Special Use Permit.

80. The Zoning Board of Appeals granted that modification based upon the following considerations:

a. While such modification is clearly not in compliance with the regulations and requirements of the Zoning Code of the Village of Pittsford, the reduction in required parking spaces was an appropriate condition to allow the Church to remediate its two substantial safety concerns.

b. Such reduction permitted St. Louis Church and School to achieve its goals and therefore, since the reduction had very little impact on location and size of the use, the nature and intents of the operations, and in view of the availability of parking onsite and on adjacent streets, such reduction was in harmony with New York States requirement that when dealing with a religious goal and purpose, a municipality must allow that goal and purpose when it can be appropriately cushioned by reasonable conditions.

c. The elimination of five parking spaces onsite will have no affect on the value of adjacent property.

d. The elimination of five parking spaces onsite will not create a hazard to health, safety or general welfare.

e. The elimination of five parking spaces onsite will not be detrimental to the flow of traffic in the vicinity.

f. The elimination of five parking spaces onsite will not alter the essential character of the neighborhood, nor will it be detrimental to the residents thereof.

Site Plan Review Pittsford Village Code § 210-84 B.

81. With the five parking space reduction area variance granted to the applicant, the applicant could now provide for the line of site remediation and pedestrian safety remediation which were the goals of both applications and therefore the Planning Board granted preliminary site plan approval.

82. The preliminary site plan granted at the August 22, 2011 meeting provided adequately for vehicle traffic access and circulation as well as pedestrian traffic access and circulation.

83. The site plan took into account the availability of nearby public and on-street parking.

84. Since no additional building and signage was requested, no consideration of these issues at that hearing was required. The lighting was reserved for final site plan review and approval.

85. In granting site plan approval, the Board considered the nearby residential uses and the impact of the site plan on those uses and found that there was no increased adverse impact on such uses.

86. Likewise, in retaining a substantial portion of the current brick wall, in retaining the northern property tree line, and providing for the landscaping requested by the applicant, the Planning Board found that the landscaping and noise deterring buffers between the residential use and the church and educational uses, were appropriate.

87. By eliminating any further blacktopping or impervious surface, the Planning Board ensured that there would be no additional adverse affect from additional storm water drainage.

88. There was no indication that there was any area of high susceptibility to flooding.

Linda Habeeb, Recording Secretary