

**PROCEEDINGS OF A SPECIAL MEETING
OF THE
VILLAGE BOARD OF TRUSTEES
January 14, 2011 – 3:30 PM**

Present:

Mayor: Robert Corby
Trustees: Paula Sherwood
Trip Pierson
Tim Galli
Steve Maddox

Attorney: Jeff Turner
Recording Secretary: Anne Hartsig

Mayor Corby called the meeting to order at 3:35 PM.

GUYS PIZZA – SPECIAL PERMIT

Mayor Corby noted that the public hearing for this application was closed on December 27, 2010. He said the Board would hear comments from the public.

Janet Reynolds, 35 Church Street: Ms. Reynolds is opposed to this application for the following reasons.

- Prior experiences with Great Northern Pizza, which was a similar business, were not favorable.
- Delivery vehicles using Church Street are detrimental to residents of the street.
- The owner said the busiest time for the business will be between 5:00 and 8:00 PM. This time overlaps rush hour in the village.
- There is no parking available and it is not possible to enforce employee parking in other locations.
- There is lack of space for trash receptacles and grease odors are blown into the environment by fans.
- The proposed location for this business is in a historic building.
- Another restaurant will most likely inhabit the former Great Northern Pizza Building. If there are two restaurants, the number of problems will double.
- The proposed take out pizza shop is similar in nature to the Pita Pit which applied for a special permit in the past. The Board was opposed to that business. Why is this any different?
- Even if conditions of approval are imposed, the Church Street neighbors have not had positive experiences with the enforcement of those conditions.

Sue Triolo, 34 South Main Street: Ms. Triolo stated that she agreed with all that Ms. Reynolds said. She said she is surprised that the Board of Trustees would allow a pizza oven to be in a historic building and she can't believe they are giving up a retail space for a restaurant. She is concerned about odors wafting upstairs and next door since there are other businesses in the building. She asked why the applicant chose that location. The applicant responded that there were many components including his love of Pittsford Village and the foot traffic that is in the village.

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Ruth Donahue, 24 Church Street: Ms. Donahue submitted a letter in which she stated several reasons for her opposition to this business. The letter is a part of the file on this application.

Frank Galusha, 24 Boughton Avenue: Mr. Galusha said he welcomes the opportunity to have another pizza establishment in the village but he does not feel the proposed location is appropriate. In reviewing the standards of approval for a special permit, §210-74 B. (3) a. & e., Mr. Galusha stated that the access to the site and the size of the site are not adequate for the proposed use and the proposed use will be detrimental to the flow of traffic in the vicinity due to delivery trucks that are necessary to run this business. Mr. Galusha also questioned whether or not the owners provided sales projections and traffic studies. Mr. Galusha said that the document that was submitted stating that Guys Pizza is allowed to use parking spaces at the former Great Northern Pizza location is for non-exclusive use of that lot. He asked if it was a binding agreement. Trustee Pierson replied that the Board didn't consider those spaces as a parking solution because it is not a binding agreement.

Shirley Joseph, 25 South Main Street: Ms. Joseph asked if there are codes that address the use of an oven and exhaust apparatus in a historical building. Mayor Corby responded that there are codes that provide limitations. These codes have been reviewed. He stated further that only the outside of buildings can be designated as historic. The interior of this building does not have any historic value due to many renovations that have occurred over the years.

Ms. Joseph stated that her business abides by the codes but there is a nearby restaurant that utilizes garbage dumpsters belonging to others. She said the owner of that business has not conformed to the details of what is and what is not allowed. She stated that people try to get around the conditions imposed on their businesses. She said South Main Street is becoming like "Cooks' World" and that the village is being converted to a restaurant strip. She asked if this is what the Board of Trustees wants.

Swanda Reddington, 25 South Main Street: Ms. Reddington stated that foot traffic has slowed down in the village. She said there is a bus stop directly across from the proposed site and there is no parking on South Main Street for the #18 & #20 South Main building. She said she is concerned about having an oven in a historic building. She asked the Board if approval of this application will set a precedent for take-out restaurants such as Wendy's. She is concerned about the image of South Main Street becoming known as a pizza street.

Mayor Corby said he is concerned about tractor trailer delivery trucks going down Church Street. He said one of the conditions of approval that is included in the motion made on 12/27/10 is that delivery trucks cannot block Church Street. It was noted that there is a vehicle weight limit for Church Street and tractor trailers exceed that limit. Therefore, they cannot drive on Church Street. He said deliveries must be allowed on Main Street because it is a commercial district.

Trustee Sherwood said the Board should not add to existing concerns. She said that she does not think access to the site is adequate for the proposed use. Although a formal application was never submitted, Trustee Sherwood reiterated the concerns that Board members had over a former inquiry about starting a Pita Pit restaurant on State Street. Those concerns included noise, odors, parking, and nearness to neighbors.

Greg Kissell, owner of Guys Pizza: Mr. Kissell said he appreciates the concerns of all who have spoken, especially the Church Street residents. He stated he will be personally responsible for the delivery drivers and for the employees and where they park.

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Regarding the exhaust equipment, Mr. Kissell stated that he met with APRB Chairperson Paul Zachman and showed him his plans. Mr. Zachman thought the plan was doable with screening. However, the plans will need APRB approval. Mr. Kissell is considering an in-line exhaust system in the interior of the building. There would be a 20" x 22" metal panel painted to match the building on the exterior of the building. There will be no structural change to the building.

Jay Birnbaum, owner of #18 & #20 South Main Street and a Pittsford resident: Mr. Birnbaum stated that the current zoning law dictates that first floor spaces are retail spaces. He said restaurants are included in the definition of retail. He said if the Board of Trustees approves the application with conditions, the conditions will be accepted and respected. He said Mr. Kissell is a professional and owns a chain of restaurants. Mr. Birnbaum said he is a real estate professional. He stated that what is relevant to the application is 1) does the use comply with the zoning, 2) does the application conform to the special permit standards, and 3) will the applicant, if approved, follow conditions of approval.

Janet Reynolds, 35 Church Street: Ms. Reynolds asked where the customers will park. Mr. Birnbaum responded that conditions cannot be placed on customers. Mayor Corby said that customers can park anywhere that parking is allowed.

Mayor Corby explained how the zoning for South Main Street has been adapted in the past to accommodate changing economic conditions. Restaurants and coffee shops were allowed to keep business in the village. He also stated that the Village does enforce the code but sometimes it is a matter of going to court which increases the time it takes for a violation to be corrected. Lastly, Mayor Corby asked Mr. Kissell to clarify the number of totes and the provisions for grease disposal.

Trustee Galli stated that the majority of business will occur after 5 PM. Mr. Kissell noted that the business will have delivery service. He said 5% of business is delivered in the summer and 70% is delivered in the winter.

The motion that was made at the December 27, 2010 meeting and adjourned to this meeting is as follows:

A motion was made by Trustee Pierson, seconded by Trustee Galli to approve the special permit application for Guys Pizza with the following conditions.

1. Trash will be orderly and contained at all times.
2. There shall be no more than four (4) totes including the grease receptacle. Totes shall be of the same size as those shown in a file photo submitted on 12/27/10.
3. Trash receptacles will be screened. Screening for the exhaust hood, signage, and venting for HVAC must be approved by the APRB.
4. Supply deliveries to the business must be completed by 7 AM and delivery trucks may not block Church Street or South Main Street traffic.
5. Employees may not park in the municipal parking lot (Burdett lot) or on Church Street other than in the two spaces adjacent to the building, and there shall be no double parking or hazard light parking.
6. Outdoor seating will consist of two tables with three seats per table. The tables shall be positioned as close to the building as possible and off the public right of way. Tables may be in place from April 1st through November 1st.

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7. Outdoor tables and umbrellas shall be secured from the wind for safety purposes and there shall be no advertising on the umbrellas.
8. Guys Pizza will be responsible for maintaining the Village trash receptacle in front of the building and will provide additional receptacles if required.
9. This special permit shall be reviewed 12 months from the opening of the business.
10. There will be no tractor trailer parking or delivery on Church Street in conformance with weight limit code restrictions in 195-30. Schedule V: Trucks Over Certain Weights Excluded.

Following the review of this motion, a vote was taken.

Vote: Pierson – yes, Galli - yes, Corby – no, Sherwood – no, Maddox – yes. **Motion carried.**

The decision was filed in the Office of the Village Clerk on January 14, 2011.

21 LINCOLN AVENUE – APPEAL FROM PLANNING BOARD DECISION - PUBLIC HEARING CONTINUED

Trustee Pierson recused himself due to a conflict of interest.

Attorney Turner, by way of introduction, said a thorough review of the subdivision application was made by the Planning Board. The Planning Board acted based on information that was included in the application. Following their review, they denied approval to subdivide this property. Attorney Turner said the information that the Planning Board had was deficient because it did not include information regarding the size of lots and the lot coverage of surrounding properties. The charge to the Board of Trustees is to determine whether the Planning Board was arbitrary and capricious or acted inappropriately based on the information contained in the application that was submitted to them. He stated that the public hearing is still open.

Mayor Corby and Trustee Maddox, who were not at the January 11th meeting, have since reviewed the record and familiarized themselves with this application.

Mr. Aiello, the property owner, explained his reasons for seeking subdivision of this lot. He said he had gone through the process that he felt would be best for the village neighborhood but he has been denied. Attorney Turner suggested that Mr. Aiello could contact the Assessor to obtain information about lot sizes and house sizes within 200'-300' of the subject property. This would be information that the Planning Board did not have when making their decision. He could then reapply to the Planning Board with the new information because it would be a substantially different application. Mr. Aiello replied that he did not plan to reapply to the Planning Board and he would like a vote to be taken at this meeting so he can move forward.

Frank Galusha, 24 Boughton Avenue: Mr. Galusha asked if a precedent would have been set if the subdivision had been approved. Mayor Corby said that in general it might have been. However, this particular property is unique and exceptional due to its shape.

A motion was made by Trustee Maddox, seconded by Trustee Galli, to deny the appeal and uphold the decision made by the Planning Board to disallow the subdivision of property owned by James Aiello and located at 21 Lincoln Avenue.

Vote: Corby – yes, Galli – yes, Maddox – yes, Sherwood – yes, Pierson – abstain. **Motion carried.**

The decision was filed in the Office of the Village Clerk on January 14, 2011.

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ADJOURNMENT

There being no further business, Mayor Corby adjourned the meeting at 4:50 PM.

Anne Z. Hartsig, Recording Secretary