

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES
Aug. 5, 2011 – 8:00 AM**

Present

Mayor: Robert C. Corby - 8:20 AM

Trustees: Tim Galli
Lorie Boehlert
Trip Pierson
Paula Sherwood

Attorney: Karl Essler

Recording Secretary: Anne Hartsig

CALL TO ORDER: Deputy Mayor Tim Galli called the meeting to order at 8:10 AM.

KARL ESSLER, ATTORNEY: Mr. Essler summarized the Village Board's involvement in the process that has taken place so far regarding the proposed development at 75 Monroe Avenue. He stated that the Village Board opened a public hearing regarding a moratorium for potential changes to the R5 district. This proposed moratorium posed the potential for litigation with Pittsford Canalside Properties LLC. The Open Meetings Law allows potential litigation as an acceptable reason to hold executive session meetings, which the Board of Trustees did. The Board was receptive to discussions with the applicant to attempt to find a common understanding about the parameters of the project without necessarily going through with the moratorium process. Public workshop sessions were held that were not public hearings. However, the public hearing process will be available regarding the special use application. At the same time, the Board ran into another issue. The applicant stated that there would be a limit to accepting the restrictions that the Board imposed upon this development in order to not lose their ability to realize a reasonable rate of return on their investment. Attorney Essler advised the Board that this issue should be discussed in executive session since this could potentially cause additional litigation in the form of a constitutional "taking" claim. He explained that the law basically says that when someone invests money in a property, they are legally allowed to make a reasonable return. It is a flexible concept which is hard to put a hard and fast number on. Therefore, the Board held a third executive session meeting to which Pittsford Canalside Properties LLC was invited as a participant. The purpose of that meeting was to hear confidential financial information from the applicant regarding the proposed project. Mr. Essler said the law is clear that this is another acceptable basis for holding an executive session meeting because if there is an issue where confidential information might be disclosed publicly, that information could be used by a competitor of the applicant. Mr. Essler said today the Board is meeting in a public forum to resume dialog about this project and about the R5 district.

TRUSTEE BOEHLERT: Trustee Boehlert thanked the applicant for their interest in the village and for trying to develop a difficult piece of land, for their patience with the process, and for sharing financial information that gave the Board of Trustees greater insight into this project and insight into the burdens that the site, the environment, and the Village has placed on the applicant. She asked the applicant to understand the amount of research that the Village Board has done on this project and to understand that the Board is taking a risk. She said there is no crystal ball to see how this development will affect the people of the village. She explained that the Board is trying to gather information from knowledgeable professionals. She said the Board does not have all of the answers right now but that they do have some recommendations that may help everyone come to a meeting of the minds. She said that is what the meeting today is for.

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ATTORNEY ESSLER: Mr. Essler pointed out that there has been no vote taken by the Board of Trustees on the moratorium, the special permit application, or any of the issues regarding the project design.

TRUSTEE GALLI: Trustee Galli explained that the applicant is dealing with five individuals who have a consensus on some of the issues but not on all of the issues. He noted that the Board members are in the vicinity of 167 units for the project based on the financial information provided by the applicant. He said there is some consensus on a maximum height of 42 feet, although not all of the buildings should be at 42 feet. The number of stories the Board talked about was four. He said the Board is seeking variation. Members agree that they do not want to see a wall of tall buildings because the area is a gateway into the village. He said members agreed that no more than 2 parking spaces per unit are needed. Members agreed that a restaurant with total seating of less than 100 would be acceptable to reduce the amount of parking that is needed and to give more flexibility in the foot print. Members also concur that green space is a very important element.

TRUSTEE PIERSON: Trustee Pierson said that the Board has differing opinions. He noted that the following comments are his personal opinions. Trustee Pierson said he thinks a restaurant is a good element and will be a draw for the canal promenade. He is in agreement with the number of 99 seats for the restaurant because it is a good number regarding fire codes and regarding traffic. Trustee Pierson stated that he has faith in the APRB and in Roger Brown but due to the fact that this area is a gateway to the village, he would like to see the taller buildings located at the back of the property, depending on the total design. He said as long as adequate green space is incorporated, he is not concerned about hard and fast numbers. Trustee Pierson noted that he is thankful for the help provided by Mike Smith.

CHRIS DIMARZO, PITTSFORD CANALSIDE PROPERTIES LLC: Mr. DiMarzo thanked the Board for the time and effort they have spent on this project. Regarding the site plan, he asked the Board to identify the most important element in terms of open space or decreased height. He said it is hard to have both. He said reducing parking to two spaces per unit is not a problem. Regarding the height of the buildings, he said a four story building with only 42 feet of height cannot be built. Trustee Pierson responded that in his opinion, taller buildings would be acceptable at the back end of the property. However, at the front end, he would like the project to look open and green because it is a gateway. In his opinion, different and unique buildings will be pleasing for this project. Trustee Pierson stated that for purposes of the discussions, the term “height” means from the ground to the ridgeline.

ROGER BROWN, ARCHITECT FOR PCPLLC: Mr. Brown said he thinks that limiting the height to 42 feet would be difficult if not impossible. He said it may even be hard to build a three story building with that height restriction. He said most places consider a median height and the Board concurred. He said variety is essential. In his opinion, taller buildings toward the back and shorter ones in the front would be doable. The developer would like to have 9 foot ceilings inside. He said he cannot accommodate the roof pitch with a height of 42 feet. He said that if you measure the height from the ground to the peak, a three story building gives you 46 feet; a four story building gives you 56 feet. If you measure from the ground to the eave, a three story building gives you a height of 34 feet; a four story building would give you 44 feet. Regarding parking, a tree row has been added and there will be more green space between buildings. He said the public realm street idea along the canal is compelling and will add green space. Mayor Corby said that an average grade is what is used to measure height. He also said that the “front” of the proposed buildings is the elevation that faces the canal.

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MAYOR CORBY: Mayor Corby said there will have to be compromises. He said the important issues are the edge treatment along Monroe Avenue, the view off the Monroe Avenue Bridge, the view from Sutherland Street over the fields, the view from the western approach on the canal. He noted that the look of a skyscraper is not desirable nor is the look of a monotonous row. He said it goes back to the design.

Mayor Corby stated that the intent of the Code indicates that a high quality of open space should be incorporated.

ROGER BROWN: Mr. Brown talked about Bristol, RI, a municipality that has a Main Street similar to the Village of Pittsford. He said residential areas have been incorporated into Main Street. There are some tall buildings and it works because of the total design, trees, and building variety, and because of the power of the public realm. Mr. Brown said he has no reservations about the design of this project being compatible with the rest of the village. It will be in keeping with the Erie Canal. Mr. Brown showed schematic drawings. He said there are 351 total parking spaces including those underground, in the garages, and perpendicular and parallel parking.

CHRIS DIMARZO: Mr. DiMarzo presented an aerial photo and pointed out where the restaurant will be located. He reiterated that a height of 42 feet will not work for four stories or three stories. He asked the Trustees to allow Mr. Brown to do his design work. Mr. DiMarzo also noted that this project will not be seen from village residences.

MAYOR CORBY: Mayor Corby asked what the developer's vision for the open space at Monroe Avenue might be in terms of function. Mr. Brown replied that it would be a gateway/entrance. There would not be parking. There would be sidewalks, a tree row, and street lights. Mayor Corby suggested that the buildings could be moved closer to Monroe Avenue.

TRUSTEE SHERWOOD: Trustee Sherwood asked what the view might be from the Monroe Avenue Bridge. The reply was that one would be at the level of 2nd story windows.

CHRIS DIMARZO: Mr. DiMarzo said that a restaurant with outdoor seating would be key in this location. He said a total of 100 seats both inside and out would be difficult. Mayor Corby said the Board is concerned about the amount surface parking that would be required, which is one reason to limit the seating to less than 100. Mr. DiMarzo stated that a restaurant that small may not be able to make enough money. He said the restaurant will have less than 150 seats but he did not know if it was feasible to have less than 100.

MAYOR CORBY: Mayor Corby asked how the project elements have progressed with the NYS Canal Corporation. Mr. DiMarzo said Don Riley has met with the new Director who indicated he was excited about the project.

TRUSTEE SHERWOOD: Trustee Sherwood asked about the mechanicals for the project. The reply was that they would be located as much as possible along the back of the project site. The developer is researching the possibility of using the canal for a cooling system. This process is used at Corn Hill Landing. The difference is that the Genesee River is not drained in the winter. More research is needed to see if this process is feasible for this location.

NEXT STEPS: Attorney Essler said the Board of Trustees will look at the next concept presented by the developer. Roger Brown will do more drawings. Mayor Corby said the Board will consider how the bulk and massing is distributed on the site given the parameters that the Board has talked about.

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FRANK HAGELBERG, ATTORNEY FOR PCPLLC: Mr. Hagelberg said the developer will be responsive to the Board’s suggestions and will establish something that is consistent with the ordinance. Mr. Hagelberg said the developer does not want to restart the process with the APRB and the PZBA. He said once the Village Board approves a plan for this development, he wants to be certain that “yes” means “yes”. He will have to discuss the procedure and path forward with Mr. Essler. He said the Village Board will have to tell the other Boards that the plan is going to be approved.

Mr. Essler replied the Board of Trustees cannot give such hard and fast assurances before formally considering the special use permit. However, he noted that Chapter 210-19.4 A. of the Village Code allows the Board of Trustees to establish a “regulating plan” for the project. The ARPB and the PZBA must consider the regulating plan when making their decisions.

MAYOR CORBY: Mayor Corby said that when the next meeting with the developer is held, members from the APRB and the PZBA should be also attend. He noted that when and if a Special Permit is granted for this project, the developer will have to go back to the APRB and the PZBA for approvals that fall within the purview of those Boards.

STACEY FREED, VILLAGE RESIDENT: Ms. Freed said the project drawings look like a college campus. She said the streetscape for the project is crucial. She would like to see real integration with the village. Ms. Freed said she wants to feel like she is walking in the village when she walks on this site. She would like to see a playground on the site. She would like to see a “massing” model. Mayor Corby thanked her for her comments.

ADJOURNMENT

A **motion** was made by **Mayor Corby, seconded by Trustee Galli**, to adjourn the meeting at 9:35 PM.

Vote: Corby – yes, Galli – yes, Sherwood – yes, Pierson – yes, Boehlert - yes. **Motion carried.**

Anne Z. Hartsig, Recording Secretary