

**THE PROCEEDINGS OF THE BOARD OF TRUSTEES SPECIAL MEETING
TUESDAY, OCTOBER 16, 2012 AT 5 PM**

PRESENT

MAYOR	Robert Corby
TRUSTEES	Tim Galli Paula Sherwood Trip Pierson Lorie Boehlert
ATTORNEY	Karl Essler
RECORDING SECRETARY	Mary Marowski

CALL TO ORDER

Motion: A motion was made by Trustee Sherwood, seconded by Trustee Pierson, to call the meeting to order at 5 PM.

Vote: Corby – yes; Galli – yes; Sherwood – yes; Pierson – yes; Boehlert – yes **Motion Carried**

75 MONROE AVENUE - CONTINUATION OF THE PUBLIC HEARING

Mayor Corby invited the audience to express their concerns regarding the proposed development at 75 Monroe Avenue submitted by Pittsford Canalside Properties, LLC.

Fred Lester – 102 South Main Street, Pittsford, New York 14534

Resident is concerned about exiting onto Monroe Avenue from the new development. He stated that there could be a conflict with Village Green Office Park in that people would be coming and going at approximately the same time causing congestion. He was inquiring if the Village had considered a left hand turn or a light at this location. Mr. Lester was also concerned about the criterion that was used in determining the data provided by the traffic studies. He further asked if the Town of Pittsford was in agreement with this project.

Mayor Corby stated that the Village has had three traffic studies done, all of which reflect the same conclusion. SRF, one of the traffic engineering companies reviewed it as it is currently and with future projections. Their opinion reflected that the incoming speed into the Village should be reduced by 10 mph to help address some of the safety concerns. Other suggestions included re-striping the road and installing a wider turn lane along the new landscaped median. This plan was approved by the NYS DOT. Due to the proximity of the railroad tracks, it was not feasible to install a traffic light at this juncture. The Town of Pittsford is in support of this project.

Sharon Eastman – 11 Elmbrook Drive, Pittsford, New York 14534

Ms. Eastman is in opposition to this project due to the land contamination issues, traffic flow, and rentals. She stated that the project would negatively change the demographics of the Village.

Jeff Bove – 14 Elmbrook Drive, Pittsford, New York 14534

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

Mr. Bove is concerned that the characteristics of the Village would be compromised. He enjoys the old style, warm and comforting atmosphere the Village provides. He stated his conversations with visitors invoke the same comfort feelings for them that he experiences. He is also concerned about domestic issues, which frequently lead to violence that may arise from the rentals.

Mayor Corby stated he has been involved with the Village government for over twenty years. His interest is in the preservation of the character of the Village, the canal gateway, and the project's proximity to the historic section of Monroe Avenue. He stated previously a strip mall and an office park were suggested which would create a greater traffic flow. Therefore, the property was annexed and rezoned to reduce the traffic impact on the Village. Advice was sought from environmental consultants to address questions regarding the canal, railroad, and ventilation requirements for single family homes (which are prohibitive on this site due to ventilation concerns). Mayor Corby elaborated further to say the Village was made aware that the contamination on this site is not migratory and is a low hazard. As a result, the R5 district was developed. All concerned agencies had a voice through the SEQR process. The Planning and Zoning Boards had reviewed the project and submitted their recommendations to the Trustee Board as well.

Stacy Freed – Jefferson Road, Pittsford, New York 14534

She understands that Mark IV purchased the property. If this project moves forward and the residents do not like it, what is the next step to proceed with? Can it be presented through a referendum?

Mayor Corby responded stating the mass and scale of the project looks appropriate for the site from the conceptual drawings.

Attorney Essler, Village attorney representing this project, stated he has been involved for the last two years and he is very impressed with the serious manner in which this project has been reviewed. With due diligence in the approval of a special permit, residents have the right to challenge the Trustee's decision through a court action. The applicant also has the same right.

Alisa Plummer – 66 South Main, Pittsford, New York 14534

In reviewing the latest rendition of the resolution, Ms. Plummer sited language that had been struck out and raised concern that the APRB's right to exercise its' authority would be diminished.

Attorney Essler stated this language was struck to simplify and not to confuse the purpose. It is part of the R5 zoning.

Lyn Lanphear – 14 Jackson Park, Pittsford, New York 14534

Mr. Lanphear stated that the applicant has applied for Brownfield funds (grant). Are these monies taxpayer dollars?

The Board stated that Brownfield monies were taxpayer dollars.

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

Fran Kramer – 17 Golf Avenue, Pittsford, New York 14534

Mrs. Kramer said there were a lot of issues that had gone through the Village process. As a follow-up to Ms. Freed's statements, what can the Board do to further address resident concerns? Is it possible to change the R5 zoning? Can the Board legally reduce the size and scope of the project? If the residents are in strong opposition to the project, can the Board consider legal action?

Attorney Essler stated the Board of Trustees has the right to amend the R5 district zoning. There would need to be sufficient drastic changes from the proposed plans for a court to honor such a request. Public opposition to the project is not sufficient cause.

The Board further elaborated on the reasons they had proceeded with the moratorium. It was further stated that legally the applicant has the right to have a reasonable return on his investment.

Stacy Freed – Jefferson Road, Pittsford, New York 14534

What is a definition of reasonable return?

Generally speaking, a reasonable return averages between 7%– 15% per the courts and the issue involved as spoken by Attorney Essler.

Lily Lanphear – 14 Jackson Park, Pittsford, New York 14534

Will the character of the building be addressed by the Trustees, e.g., reducing the scale on building height and addressing the architectural features. She also suggests stronger building height restrictions.

Attorney Essler explained that the R5 code is not specific therefore, if adopted, the regulating plan will frame the conceptual design detail of the project. It will address the limitations in reference to size, scale, and design.

Harold Danko – 25 Monroe Avenue, Pittsford, New York 14534

Mr. Danko sited traffic concerns and that the renderings presented do not resemble the Village. He mentioned that the scale was too large.

Susan Judson – 15 East Jefferson Circle, Pittsford, New York 14534

Mrs. Judson is concerned about the safety in exiting the project, current traffic back-up due to the train, and safety concerns for the young families in the Village.

Frank Galusha- 24 Boughton Avenue, Pittsford, New York 14534

Mr. Galusha addressed the applicant's expectation for a rate of reasonable return, the Boards satisfaction with the percentages, and historical protection of the area in regards to the creation of the R5 District. He stated that the stories are not defined by the number of feet or units per acre. There is a spirit of co-operation between the Village and the applicant. He understands that the applicant may

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

have a self-imposed financial hardship, but that residents are trying to protect themselves. In his review of the traffic study done by SRF, the report states that by 2020, Sutherland, Monroe Avenue and Main Street will be highly congested. Mr. Galusha states this will result in a traffic cut through pattern onto the Village streets. The Village and the applicant are working together and he reminded the audience that a moratorium was called. This project could be brought up for legal action by the applicant as well as the village.

Attorney Essler concurred that legal action could be taken.

Jack Cargil – 8 Boughton Avenue, Pittsford, New York 14534

Mr. Cargil prefers to see light businesses that generate low traffic volumes at this location instead of the current proposed project.

Mayor Corby explained that any business going into this location would generate more traffic because the number of patrons would increase, therefore increasing traffic vs. the traffic habits of residential activity. It would also be difficult to legislate this on a per day basis. This project should be compared to those along the Monroe Avenue Corridor such as Village Green, Pittsford Colony and Wood Creek. Some of these complexes have many more units than the one proposed.

Justin Vlietstra – 19 Boughton Avenue, Pittsford, New York 14534

If the Board of Trustees grant the special permit, can another board say no? Can the special permit be revoked? What kind of a restaurant is proposed? Also he'd like a clear idea of what the dimensional requirements are.

Attorney Essler stated that as long as the applicant adhered to the approved conceptual plan presented (7 buildings, 167 units, 337 parking spaces, and a restaurant, then the PZBA and APRB cannot say no. Mr. Essler also stated the Trustees were very explicit regarding the building materials. They are making no recommendations or endorsements, however allowing the APRB to proceed as required.

Trustee Pierson stated the criteria used for this project is the same criteria the Board would consider for anyone else seeking to receive a special permit. The Trustees are very serious with the many factors that comprise this project. They are also concerned about the rate of reasonable return within a historic district. This project would require better materials. It is National Registry eligible. As a Board, they are concerned that there should be no adverse effect with regards to the existence of the restaurant. The restaurant, as part of the conditions of the special permit, will be subject to Trustee review at a specified time.

Marty Martina – 30 Locust Street, Pittsford, New York 14534

What are the prices of the rental units?

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

Chris DiMarzo, Applicant and owner of the property, stated that the information is listed on their website (www.westportcrossing.com).

Sharon Eastman – 11 Elmbrooke Drive, Pittsford, New York 14534

Ms. Eastman is opposed to the project. She is concerned about the amount of infrastructure, the rental units, and the parking garage.

Fred Lester – 102 South Main Street, Pittsford, New York 14534

Mr. Lester stated the railroad tracks go down the side of the project. The rents listed for the property is between \$1,000 and \$3,000 a month. What happens when rents drop? How many times a day does the train travel through the Village?

Trustee Pierson stated that the PZBA looked at this aspect. The Village cannot legislate the type of people that will rent. It is believed this project will hold its' status in the market. The train travels through the Village 17 times a day. Mayor Corby also stated that a financial analysis was prepared by Pittsford Canalside Properties and they have a high end target.

Susan Judson – 15 East Jefferson Circle, Pittsford, New York 14534

Mrs. Judson is concerned about the crime aspect in the rentals. She stated that other Village owners have had some significant problems.

Mayor Corby said this project needs to be compared to other apartment units such as Pittsford Colony and Wood Creek. The other units have 156 – 357 units per complex. Crime is a concern there as well.

Jeff Bove – 14 Elmbrook Drive, Pittsford, New York 14534

Could the Board put limits on the development as to restrictions in the number of buildings and height?
Could the buildings be shrunk?

The Board stated the regulating plan will frame the conceptual design detail of the project. It will address the limitations in reference to size, scale, and design.

Trustee Sherwood stated that when the Board closes the public hearing, the public would no longer have the right to speak their views regarding the project. The Board would have a 62 day window in which to make a decision regarding the special permit. Unless there was a major change to the conceptual drawings presented, public hearing can no longer be re-opened.

Fran Kramer – 19 Golf Street, Pittsford, New York 14534

Mrs. Kramer said she would like to see a Village-wide mailing done for every meeting. She would also like the Board to revisit the financial analysis and the hardship issue.

Jean Moe – 29 Hearthstone Road, Pittsford, New York 14534

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

Ms. Moe sees there is much confusion and debates with the residents.

Mayor Corby said there has been some confusion regarding the development of the property. The Board was working on limiting development and traffic in an effort to strive for a better outcome.

Ken Morrow – 48 Sutherland Street, Pittsford, New York 14534

Mr. Morrow was questioning what the rate of return was expected on the project.

The Board re-iterated that a 7%-15% could be determined by the court.

Attorney Essler stated that financial information presented to the Board by the client was of a confidential matter. The Village Board does not know what the rate of return will be for Pittsford Canalside Properties. However, the cost/income is within the expected range and courts could determine it to be between 7% and 15%. With comments taken from the public, Mr. Essler asked if the Board was at a point to close the public hearing.

After a brief discussion, the Board had decided to keep the public hearing open for one more week. A meeting is scheduled for Thursday, October 25th at 7 PM.

Frank Hagelberg, Attorney for the Applicant, 301 Exchange Blvd., Rochester, New York

Mr. Hagelberg thanked the Board of Trustees for their tireless efforts to work with the applicant and the public to bring this project to fruition. Co-operatively, traffic concerns were addressed, a negative declaration for SEQR was received, and the issue regarding the character on the neighborhood was addressed by all parties affected. He concluded that what was still outstanding was the approval of the special permit, the site plan and certificate of approval on design. He had assured the Board that the intention of the applicant was to remain consistent with the conceptual plans presented. Mr. Hagelberg understood the reasons for the Village to make stipulations in the regulating plan to control the process and authorize its use. The applicant has complied with requests made in regards to maximum heights, orientation, and parking layouts. Market acceptance is not a worry for the applicant.

Because of the environmental condition, the railroad tracks and Monroe Avenue, the latest revision imposes a percentage of limits on story types of 2, 3 and 4, not 2 ½, 3 ½, 4 ½. The chart presented is difficult to meet, therefore it prohibits the applicant to proceed forward with the design process.

Attorney Essler explained that the R5 allows the Board to adopt a regulating plan for the purpose of a conceptual arrangement with the intention of the R5. The Board cannot impose rigid parameters, however the Board could impose a maximum percentage on the proposed building heights. Attorney Essler also stated that the Trustees cannot be involved if the APRB approves something. The Trustees could challenge the APRB's decision in court.

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012

Paul Zachman, Chairperson of the APRB, stated the percentage numbers were arbitrary off the conceptual drawing.

Chris DiMarzo, Applicant and owner of Pittsford Canalside Properties

Mr. DiMarzo thanked the Board of Trustees in their combined effort to make a beautiful project in a beautiful community. He was re-assuring the Board that the designed drawings would remain very close to the conceptual drawings but that they may be slightly different.

Trustee Boehlert and Paul Zachman, Chairperson of the APRB, state that the APRB has a mass issue with the project. The percentage numbers were derived by counting the windows in the conceptual drawings. The applicant's conceptual drawings depict building below maximum heights. The Trustees are being asked to sign off on the mass and scale, put in parameters to give some percentage allocation for flexibility and reasonableness within a benchmark.

Attorney Essler suggested that some language be incorporated to achieve this purpose and allow the applicant and the Village to move forward.

Mayor Corby will write language that will incorporate parameters on the buildings allowing the applicant to move forward with design, giving the APRB flexibility regarding the design, and also recognizing their efforts of the previous two years' review and the impact issues on the Village.

The Board discussed the residents' comments of this evening and ways to improve meeting efficiency for the next meeting scheduled for October 25th at 7 PM.

ADJOURNMENT

The Board moved to adjourn the meeting at 8:26 PM.

Motion: A motion was made by Mayor Corby, seconded by Trustee Pierson, to adjourn the special meeting at 8:26 PM.

Vote: Corby – yes; Galli – yes; Sherwood – yes; Pierson – yes; Boehlert – yes **Motion Carried**

Mary Marowski, Recording Secretary

Proceedings of the Village of Pittsford Board of Trustees Special Meeting
October 16, 2012