

**VILLAGE OF PITTSFORD**  
**PLANNING AND ZONING BOARD OF APPEALS**  
Regular Meeting January 22, 2018 at 7:00 PM

**PRESENT:**

Chairperson: Justin Vlietstra  
Members: Jo Anne Shannon  
Renee Stetzer  
Susan Lhota  
Heather Erwin  
Building Insp: Paul Alguire  
  
Recording Sec: Linda Habeeb  
PZBA Attorney: Mindy L. Zoghlin, Esq.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Erwin, to call the meeting to order at 7:10 pm.

**Vote:** Shannon – yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Stetzer - yes. *Motion carried.*

Chairperson Vlietstra stated that at the last meeting, the Board announced that the hearing for 9 North Main Street, Bank of America, would be continued at this meeting, but since the applicant did not submit any new documentation, the sign variance for Bank of America has been removed from this meeting's agenda.

**Conflict of interest disclosure:** Chairperson Vlietstra disclosed that he has publicly expressed opinions regarding the Westport Crossing project, and therefore, he recuses himself from the discussion for that portion of the meeting.

**Pittsford Canalside Properties, 75 Monroe Avenue**

**Present:** Chris DiMarzo, Bryan Powers, Mark IV Enterprises; Tom Daniels

Member Vlietstra left the meeting room at this time.

**Discussion:** Member Lhota is Acting Chairperson for the 75 Monroe Avenue portion of the meeting. Mr. Daniels stated that PCP submitted new documentation for the Board to review. Member Lhota stated that the Board received the documents, but noted that since the new material was submitted on the day of the meeting, the Board has not had time to review it.

Ms. Lhota stated that the Board is willing to arrange a meeting with the Village Engineer and PCP's Engineer to review Condition #3 of the final site plan.

**Motion:** Member Lhota made a motion to adopt the following resolution:

**RESOLUTION 2018-1 Village of Pittsford Zoning Board of Appeals**

At a regular meeting of the Village of Pittsford Zoning Board of Appeals held at the Village Hall on the 22<sup>nd</sup> day of January 2018 at 7:00 PM, the meeting was called to order by Justin Vlietstra, and upon roll being called, the following were present:

PRESENT: Justin Vlietstra

Heather Erwin  
Susan Lhota  
Jo Anne Shannon  
Renee Stetzer  
Paul Alguire, Building Inspector  
Mindy L. Zoghlin, Esq., PZBA Attorney

The following resolution was offered by Acting Chair Susan Lhota, who moved its adoption, and seconded by Board Member Heather Erwin, to wit:

WHEREAS, at a special meeting on November 11, 2014, the Planning Board granted PCP's application for final site plan approval for the 75 Monroe Avenue project, subject to 22 conditions.

WHEREAS, Condition #3 of the final site plan approval ("Condition #3") noted that PCP's site remediation activities interrupted the preexisting flow of storm water from properties to the east of the site, across the site to the canal and required PCP to develop and implement a plan to restore the storm water flow from the CSX property to the Canal.

WHEREAS, by letter from Peter Vars, dated October 19, 2015, PCP asked the Planning Board to "acknowledge" that Condition # 3 has been satisfied.

WHEREAS, on November 13, 2015, Chris DiMarzo wrote the Planning Board a letter stating that:

"the storm sewer was inspected in the field by the Village Engineer, who found that the as-built storm sewer is functional and satisfactorily restored the drainage through the property between the CSX railroad and the Erie Canal as required by Condition # 3 of the PZBA's November 11, 2014 resolution as confirmed by the correspondence of Peter Vars, dated October 19, 2015 as filed with the PZBA."

WHEREAS, after receiving Mr. DiMarzo's November 13, 2015 letter, the Planning Board asked Village Engineer Scott Harter to give an opinion as to whether those two statements were correct.

WHEREAS, by letter dated December 10, 2015, the Village Engineer reported to the Planning and Zoning Board that the storm sewer system was constructed in accordance with the approved plan but did not restore the flow of storm water from the CSX property to the canal.

WHEREAS, the Planning Board requires the assistance of a qualified consultant to assist it in addressing Condition #3,

NOW, based on the foregoing, it is RESOLVED by the Planning Board that:

1. The Planning Board hereby requests that the Village of Pittsford Board of Trustees (the "Board of Trustees"), pursuant to Village Code section 210-110.B, retain the services of a qualified drainage engineer to meet with PCP's engineer at the site and review pertinent documents to ascertain whether PCP has satisfied Condition #3 by restoring the storm water flow from the CSX property to the Canal, and
2. The Planning Board hereby requests that the Board of Trustees establish an escrow account funded by PCP containing sufficient funds to defray the costs represented by the services to be provided by a qualified drainage engineer and as hereinafter determined by the Planning Board.

The foregoing resolution, having been seconded by Heather Erwin, and the foregoing resolution having been put to a vote, the following votes were recorded:

Justin Vlietstra - abstain  
Susan Lhota - yes.  
JoAnne Shannon - yes  
Heather Erwin - yes  
Renee Stetzer - yes

Dated: January 22, 2018  
Pittsford, New York

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Mr. DiMarzo stated that as to Condition #3, there were no measurements taken, so no one knows what the pre-existing condition of the pipe was. Ms. Lhota stated that the Engineers will be able to ascertain the water flow.

**VILLAGE OF PITTSFORD  
PLANNING AND ZONING BOARD OF APPEALS**

**RESOLUTION 2018-2**

**Project: 75 Monroe Avenue**  
**Date: 1-22-2018**

**Applicant Name: Pittsford Canalside Properties, LLC**  
**Address: 301 Exchange Blvd., Rochester, NY 14608**

**Action: Authorize Planning and Zoning Board of Appeals attorney to execute Fourth Amended Tolling Agreement regarding the January 13, 2016 Planning Board Letter.**

At a meeting of the Planning and Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened on January 22, 2018, at 7PM at Village Hall, 21 N. Main St, Pittsford, NY 14534,

The following resolution was offered by Board Member Susan Lhota, who moved its adoption, and seconded by Board Member Heather Erwin, to wit:

Attorney Mindy Zoghlin is authorized to execute the proposed Fourth Amended Tolling agreement extending the deadline for the January 13, 2016 Planning Board Letter to September 28, 2018.

The question of the foregoing resolution was duly put to vote as follows:

|                  | <b>Yes</b>               | <b>No</b>                | <b>Abstain</b>           |
|------------------|--------------------------|--------------------------|--------------------------|
| Justin Vlietstra | <input type="checkbox"/> | <input type="checkbox"/> | X                        |
| Susan Lhota      | X                        | <input type="checkbox"/> | <input type="checkbox"/> |
| Renee Stetzer    | X                        | <input type="checkbox"/> | <input type="checkbox"/> |
| Heather Erwin    | X                        | <input type="checkbox"/> | <input type="checkbox"/> |
| JoAnne Shannon   | X                        | <input type="checkbox"/> | <input type="checkbox"/> |

**Dated: January 22, 2018**

By order of the Planning and Zoning Board of Appeals of the Village of Pittsford

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Acting Chairperson,  
Planning and Zoning Board of Appeals

Member Erwin stated that on October 4, 2017, Judge Ark remanded PCP's application for a Certificate of Approval to the APRB for reconsideration pursuant to the parameters set forth in a letter dated April 4, 2017.

The Decision and Order directed the APRB to commence reconsideration no later than November 4, 2017 and specifically stated that "other provisions of the Code of the Village of Pittsford not inconsistent with this decision shall apply."

PCP submitted an Application for a Certificate of Approval to the APRB on October 23, 2017. This application includes a 2-page letter and 9 attachments.

The attachments are:

1. PCP's application to the APRB for a Certificate of Approval dated October 23, 2017;
2. Village Board of Trustees Resolution 20 of 2012;
3. SEQRA Neg Dec for Westport Crossing dated 8/9/12;
4. Something titled "Findings of the Village of Pittsford Planning Board regarding application of Pittsford Canalside Properties LLC dated September 4, 2013";
5. An undated site plan;
6. 16 pages of Architectural drawings and elevations. The first 6 pages are not signed or dated and appear to describe elevations for the Clubhouse, garage, Building 6000 (3 pages), and the pump house and gazebo. The next ten pages have the handwritten date 10/23/17 on them and appear to be signed by Richard L. Rosen on 10/26/17. They appear to be building elevations for Building 1000 (2 pages), building 2000 (2 pages), building 3000 (2 pages), building 4000 (2 pages), building 5000 (2 pages).
7. Document dated 5/31/17 is 3 pages and appears to be a list of exterior materials and specifications for Westport Crossing buildings 1000, 2000, 3000, 4000, 5000, 6000, clubhouse and garages/ accessory structures.
8. Letter from Jeff Turner dated April 4, 2017 with Exhibits A-H.
9. Judge Ark's decision and order in PCP v. Village of Pittsford ZBA and APRB dated October 4, 2017.

On November 4, 2017, the APRB referred this application to the Planning Board for two purposes.

First, the APRB referred the October 23<sup>rd</sup> application to the Planning Board to determine whether it conforms to the approved site plan.

The APRB referral does not contain sufficient information for this Board to determine whether PCP's October 23, 2017 submission to the APRB conforms to the approved site plan.

This Board asks PCP to provide us with a copy of the approved site plan with the information contained in the October 23, 2017 application superimposed on it. Once we receive that, we will be in a position to notice this for a public hearing.

Second, the APRB also directed PCP to complete and provide a Coastal Assessment Form as required by Village Code Section 121-5(B) so that the Planning Board could make a Local Waterfront Consistency determination. We have not received a Coastal Assessment Form from PCP, so cannot consider the referral at this time.

Ms. Zoghlin explained that the Planning Board wants to assure that they have all of the materials that PCP wants it to consider in connection with the APRB referral. Mr. Daniels stated that PCP has also submitted a superimposed site plan. He stated that the date of the original approved site plan is September, 2013, and it was revised on July 7, 2015. Mr. Powers described the process, and reviewed the site plan with the Board. He stated that in working with the APRB, the dimensions of the buildings have changed in both width and length, based on their recommendations. Mr. DiMarzo stated that the new site plan is the same site plan as the approved site plan, with the exception of the change of the size of the buildings. The applicants also submitted the coastal assessment form.

Ms. Zoghlin stated that the Planning Board will require that the applicants submit a signed, stamped site plan that specifically references the map that was used to create the site plan.

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**Michael Reynolds, 5 State Street ~ Parking variance**

**Present:** Michael Reynolds, owner

**The legal notice was published in the September 7, 2017 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 January 22, 2018 at 7:00 pm, to consider an application for an area variance made by Ken Bracker, as agent for owners of the business, Ruby Nail, for parking at 5 State Street, pursuant to Village Code § 210-26(A)(8)& § 210-78."*

**Discussion:** Mr Reynolds expressed concern over the location of a marked walkway to the Village Bakery. Ms. Zoghlin's response was that property disputes are not a matter handled by the Zoning Board of Appeals. Mr. Alguire is the Building Inspector and Code Enforcement Officer, and these concerns can be discussed with him. If he believes a crime has been committed, that is a matter for the police.

The Board had a discussion of the variance for minimum parking (10 spots required, 6 spots provided), and Mr. Reynolds stated he is currently more concerned about the walkway, and will handle the parking issues when a new tenant is found for the property. He requested the variance application be withdrawn.

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**Jon Schick, 44 Sutherland Street ~ Site Plan**

**Present:** David & Tina Mattia, Homeowners; Daniel O'Brien, Attorney

**Discussion:** Mr O'Brien spoke on behalf of the applicant and stated that their architect Jon Schick could not attend tonight's meeting.

Chairperson Vlietstra stated that the applicant's plans were submitted to the Village on December 19, 2017 and the Village has been diligently working to review these plans and generate a list of outstanding issues. Plans have been forwarded to the Building Inspector, Fire Marshal, and Village Engineer for review. The Building Inspector has prepared a list of outstanding items in regard to this application, which was forwarded to the architect, Jon Schick on January 16. The Village Engineer, Scott Harter, submitted his comments today, January 22, 2018, and these comments were not included in the Building Inspector's list of outstanding items to consider. However, the Building Inspector did include unresolved items from the prior engineering report from April 2017. Member Vlietstra explained to the applicant that Board members have not had an opportunity to review the Engineer's comments. He stated that many of the Engineer's comments are technical comments that will need to be addressed by the applicant's architect.

Member Vlietstra also explained that the most recent submission from the applicants has not been reviewed by a landscape architect. Previous comments by the landscape architect in April 2017 stated the proposed construction work is likely to kill trees on the neighbor's property near the property line. The landscape architect made some recommendations as to how to protect the trees from construction damage and also recommended removing a retaining wall, re-grading the land, and changes to drainage. The December 19, 2017 site plans included changes to address concerns of the landscape architect. Mr. Vlietstra said that the reason that the new plans have not been sent to the landscape architect for review is that there is confusion about the drainage and the grade on the south side of the house, and more detail is needed. According to the Engineer's review, there are issues with the proposed drainage and the applicant will need to ensure that all drain pipes flow downhill at the proper pitch and ensure all drain outlets are located at the proper elevation to allow proper pipe pitch. Additionally, the proposed elevations of the drain pipe and surface grade on the south side of the house need clarification.

Mr. Vlietstra stated that the plans need to clearly show the location of the proposed light fixtures.

Mr. Vlietstra stated that since the plans have changed since the APRB reviewed them, the applicants will need to go to the APRB for approval of the revised plans. Mr. O'Brien stated that the revised plans will be sent to the APRB for review.

A meeting between the Village Engineer and Architect Jon Schick was suggested to resolve outstanding technical issues.

**Motion:** Member Vlietstra made a motion, seconded by Member Erwin, to open the public hearing.

**Vote:** Shannon – yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Stetzer - yes. **Motion carried.**

- Ken Morrow, 48 Sutherland Street, stated that (1) shed dormers on buildings in the area are not common, and he suggested that the new house at 44 Sutherland Street have regular dormers on the south side; and (2) lighting in the area is increasing, particularly on Sutherland Street, and he suggested that the lighting on the new house be dark-sky compliant.

**Motion:** Member Vlietstra made a motion, seconded by Member Lhota, to leave the public hearing open and continue discussion at the February 26, 2018 PZBA meeting.

**Vote:** Shannon – yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Stetzer - yes. **Motion carried.**

Additional comments from the public:

- David McGeough, 28 Washington Ave: Commented about the manner in which the Board interacted with applicants, particularly the Westport Crossing applicants. Member Erwin stated her opinion that the interaction between the Board members and the applicant was courteous and respectful.
- Ken Morrow, 48 Sutherland Street, stated that it is important for the Board to be very clear in the record on what is approved and what is not approved.

**Member Items:**

- **Minutes:**

**Motion:** Member Vlietstra made a motion, seconded by Member Erwin, to approve the 12/11/17 minutes, as revised.

**Vote: Shannon – yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Stetzer - yes. *Motion carried.***

- **Liaison Report**

- Trustee Lanphear reported that Request for Qualifications (RFQs) were sent out to consultants within the state, and the Trustees and a committee will be reviewing the responses.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Shannon, to adjourn the meeting at 8:30 pm.

**Vote: Shannon - yes; Vlietstra – yes; Lhota – yes; Erwin – yes; Stetzer – yes. *Motion carried.***

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Linda Habeeb, Recording Secretary