

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting February 26, 2018 at 7:00 PM

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Renee Stetzer
Susan Lhota (absent)
Heather Erwin
Building Insp: Paul Alguire (absent)

Recording Sec: Linda Habeeb
PZBA Attorney: Mindy L. Zoghlin, Esq.

Motion: Chairperson Vlietstra made a motion, seconded by Member Erwin, to call the workshop session to order at 6:30 pm.

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

The Board looked through documents and drawings to prepare for the meeting.

Motion: Chairperson Vlietstra made a motion, seconded by Member Erwin, to call the meeting to order at 7:00 pm.

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

Conflict of interest disclosure: Chairperson Vlietstra disclosed that he has publicly expressed opinions regarding the Westport Crossing project, and therefore, he will recuse himself from the discussion for that portion of the meeting. Member Shannon disclosed that she is member of the Board of Directors of Historic Pittsford, but stated that this will not affect any decisions regarding any of the applications before the Board.

~~~~~

**Charles Clottin, 10 North Main Street ~ Temporary Zoning Permit**

**Present:** Charles Clottin, Harladay Hots, Inc.

**The legal notice was published in the February 8, 2018 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 February 26, 2018 at 7:00 pm, to consider an application made by Charles Clottin, of Harladay Hots Inc., for a temporary zoning permit to allow the seasonal operation of a vending cart at 10 North Main Street, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford.”*

**Discussion:** Chairperson Vlietstra stated that this is a public hearing for a temporary zoning permit to operate a vending cart in the lot located at 10 North Main Street. Mr. Clottin stated that the Town of Pittsford owns the lot, and he has received permission from the Town of Pittsford to operate his vending business on the lot, contingent on his being granted a temporary zoning permit from the Village. He noted that he has operated his business successfully for the past several years, with no problems. The operation this year is the same as last year.

Member Vlietstra stated that the applicant has submitted a complete application, with the required Vending Permit from the Town of Pittsford, Certificate of Insurance Coverage under the NYS Disability Benefits Law, Certificate of Workers' Compensation Insurance Coverage, Monroe County Department of Health Permit, and the Fire Marshal shall inspect his cart.

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

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

A letter from Gerald Clifford was read into the record. Mr. Clifford stated that he is opposed to the vending cart being allowed to operate his business with only a seasonal permit. No one in the audience had further comment about this application.

**Motion:** Member Vlietstra made a motion, seconded by Member Erwin, to close the public hearing at this time.

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

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Shannon, to adopt Resolution 2018-3, granting a temporary zoning permit for the seasonal operation of a vending cart at 10 North Main Street.

**Vote:** Shannon – yes; Vlietstra – yes; Erwin – yes; Stetzer - yes. *Motion carried.* The decision was filed in the Office of the Village Clerk on February 26, 2018.

**VILLAGE OF PITTSFORD  
ZONING BOARD OF APPEALS**

**RESOLUTION 2018-3 DECISION ON TEMPORARY ZONING PERMIT**

**Project:** Harladay Hots **Date:** 2-26-2018

**Applicant Name:** Charles Clottin  
**Address:** PO Box 413  
Pittsford, NY 14534  
**Action:** Seasonal operation of a hot dog cart at 10 N. Main St (aka  
Old Tillis Lot)

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened on **February 26, 2018**, at 7PM at Village Hall, 21 N. Main St, Pittsford, NY 14534, the following resolution was offered by Board Member Justin Vlietstra, who moved its adoption, and seconded by Board Member Erwin, to wit:

**WHEREAS**, the Village of Pittsford Zoning Board of Appeals received an application from Charles Clottin of Harladay Hots Inc. for a temporary zoning permit to allow the seasonal operation of a vending cart at 10 North Main Street pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford, and

**WHEREAS**, The Board has held a public hearing, and received comments thereat; and

**WHEREAS**, in connection with such application, the Zoning Board of Appeals has received and reviewed an application, Letter of Intent, Vending Permit from the Town of Pittsford, Certificate of Insurance Coverage under the NYS Disability Benefits Law, Certificate of Workers' Compensation Insurance Coverage, Monroe

County Department of Health Permit, ZBA minutes from the applicant's 2017, application for a temporary zoning permit and, held a public hearing and received comments, and

**WHEREAS**, The Board makes the following findings regarding review requirements for this action:

1. State Environmental Quality Review (SEQR):

The proposed action is a minor temporary use of land having negligible or no permanent impact on the environment, and therefore is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(15).

2. Monroe County Planning Review:

The proposed action is a temporary activity that is exempt from Monroe County Planning review pursuant to General Municipal Law section 239-m and an Agreement between Monroe County and the Village of Pittsford dated January 11, 1994.

3. Waterfront Consistency Review:

The proposed action is in a waterfront area of the Village of Pittsford but is a Type II action under SEQRA so it is not subject to a local waterfront consistency review.

4. Upon issuance of this temporary zoning permit, the proposed use will comply with all regulations, requirements and applicable ordinances of the Village of Pittsford as applicable to the subject property.

**WHEREAS**, after review, the Zoning Board of Appeals has weighed the effects of the requested temporary zoning permit on the health, safety and welfare of the neighborhood and community, and made the following findings:

1. The proposed use is in the R-4 residential district which permits single family homes and professional offices. All adjacent properties and the properties across the street are used as professional or municipal offices. It is believed that every property currently in the R-4 district is used as an office.
2. The proposed use is not in harmony with the general purpose and intent of the Zoning Code for the R-4 district, but the chosen times, nature, intensity, and location of the use adequately limit adverse impacts on the surrounding neighborhood.
3. The proposed use will not tend to depreciate the value of adjacent property, taking into account the temporary nature of the use and possibility of screening or other protective measures.
4. The proposed use will not create a hazard to health, safety or general welfare.
5. The proposed use will not be detrimental to the flow of traffic in the vicinity.
6. The proposed use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.

**NOW THEREFORE, IT IS RESOLVED** that the application of Charles Clottin of Harladay Hots Inc. for a temporary zoning permit to allow the seasonal operation of a vending cart at 10 North Main Street

pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford is hereby granted for the reasons stated above, subject to the following conditions:

1. The vending cart may be operated from May 1, 2018 to October 31, 2018, Monday through Sunday between the hours of 10 am and 3 pm.
2. The vending cart may be operated during “special events” approved by the Village, which will include 30 minutes prior to the event and 30 minutes after the event for setup and cleanup of the area. The Village Building Inspector shall be notified at least 1 week prior to operation at any special event.
3. The ZBA reserves the right to revoke the temporary zoning permit if operation of the business creates traffic hazards or unsafe conditions for pedestrians, or if there are health, safety or welfare concerns that are communicated to the applicant and not resolved. If there is an emergency condition, the ZBA may revoke the permit and provide the applicant with a post-revocation hearing. If there is a non-emergency condition, the ZBA shall provide the applicant with notice and an opportunity to be heard on the revocation. The ZBA shall have sole discretion to determine whether a condition constitutes an emergency.
4. The Fire Marshal shall determine that the food vending cart meets Fire Code regulations.
5. The applicant receives permission from the Town of Pittsford to operate the vending cart in the proposed location.
6. The Applicant shall maintain a liability insurance policy of at least \$1,000,000 naming the Village of Pittsford as certificate holders. A copy of the insurance policy shall be provided to the Village prior to operation.

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

Justin Vlietstra - Yes  
Renee Stetzer - Yes  
Heather Erwin - Yes  
JoAnne Shannon - Yes

**Dated: 2-26-2018**

Pittsford, New York

By order of the Village of Pittsford Zoning Board of Appeals

~~~~~

Jon Schick, 44 Sutherland Street ~ Site Plan Review

Present: Jon Schick, Architect; David & Tina Mattia, Homeowners; Betsy Brugg, Attorney

Discussion: Chairperson Vlietstra reviewed the status of this application. Since the last meeting, the applicant met with the Village Engineer and Building Inspector, and the Engineer submitted a list of unresolved issues primarily regarding drainage and utilities at the site. The Village has received a letter

from the Village Engineer dated February 22, 2018 stating that based on the site plan dated 1/30/18, he is satisfied that all the issues of concern have been addressed. Mr. Vlietstra commented that the applicant worked on the water lines, sanitary sewer system connections in the street, and french drains, assuring that the elevation and pitch were correct and that the drain outlets are functional.

Mr. Schick stated that a french drain along the northern retaining was removed; the driveway is pitched toward the back and front yards so this drain was not necessary because water is not directed toward the northern neighbor's property. The percolation tests that were done indicate that the soil drains well, and should be able to accept the water.

Member Vlietstra asked the applicant to discuss the proposed lights for the site. Mr. Schick reviewed the lights on the plan and submitted the details for the proposed lights. Member Vlietstra stated that he has concerns with the proposed spotlights, particularly ones in the side yards that will shine towards neighboring properties. The spotlight fixtures are not fully shielded and are brighter than the 75W maximum permitted for residential unshielded lights. Mr. Schick stated that the lights are motion-detection lights for security purposes, and they will not be on on a regular basis. Member Erwin suggested that the lights be angled downward, and Mr. Schick stated that the lights are adjustable and can be angled downward. Member Vlietstra presented examples of other types of fixtures, such as gooseneck lights, which are angled down and completely shield the bulb. He asked about the mounting height of the fixtures. Mr. Schick stated that the height of the lights off the ground is 25-28 feet. Member Vlietstra stated that according to the Village Code, the maximum allowed height is 20 feet. Mr. Schick said the lights can be lowered to 20ft and the new fixtures they recently submitted should meet shielding requirements if pointed downward. Member Vlietstra said the Planning Board can approve lights over 75W if they meet shielding and height restrictions and do not cause light trespass on adjacent properties.

Member Vlietstra inquired about the spotlight on the South Elevation, stating that its location will primarily shine light on the neighbors' yard. It is 15ft from the property line, is located on a dormer, and downlight is blocked by the roof which will result in more light shining on the neighbors' yard than the applicants yard. The applicant and Board discussed alternatives including moving the light, using a different type of fixture, or removing the light.

Member Vlietstra stated that on April 17, 2017, the Landscape Architect, Mary Scipioni, submitted a report on the landscaping at 44 Sutherland Street. The report indicated that there was a concern with construction work adversely impacting the neighbor's trees along the southern property line. The report recommended that the rule of thumb for maximum disturbance of root systems is generally 25%. The tree of major concern on the southern boundary is a Norway Spruce and White Pine, which is tolerant of some root cutting but sensitive to changes in drainage that would be caused by compaction, excavation, and new drainage. The report recommends moving the area where there is digging to within 5 or 6 feet from the house. Since this report there have been significant changes to plans, particularly near the southern property boundary. Member Vlietstra explained that because of this concern, the Planning Board is requesting that the new plans be reviewed again by a licensed Landscape Architect to make recommendations to resolve any remaining issues so construction activities will not kill the neighbor's trees.

Member Vlietstra listed other recommendations from the Landscape Architect's April 4, 2017 report:

1. Fertilization of the Pine and Spruce trees prior to construction.
2. Pruning of the Pine for stability and balance prior to construction.
3. Application of a 12" mulch layer over the area that will be subject to traffic by vehicles and people.

4. Protective orange construction fencing around each tree in the vicinity of construction activities, minimum 3' high, with metal stakes located at 6' intervals. The fencing should be located at 8' from the trunk of the Pine and Spruce and at 5' from the trunk of the Norway.

Mr. Schick stated that originally, there was a retaining wall located on the south side, but that has been removed from the plan, and now they are proposing to grade the area, which will be less invasive to the roots of the trees. He further stated that there is only a 15-foot setback to the southern property line, so there is a very small area for construction vehicle access. Construction vehicles will need a minimum of 12ft to move around the foundation. The construction fence around the Spruce and Pine tree will need to be about 5-6ft from the trunk. He stated that in the front and back yards, they will be able to keep the construction fence 8 feet from the neighbors' trees. The Landscape Architect's report recommended that construction fencing around the Norway Maple on the northern property line next to the driveway should be 5 feet from the trunk but they can only provide 4 to 4.5ft due to the location of the driveway. The Landscape Architect stated this was a tough tree that was not likely to be killed by construction activities so he believes the construction fencing to be adequate in this location.

Member Vlietstra asked the applicant for a general description of landscaping for the property. The Board needs to find landscaping to be adequate. Mr. Schick stated that there will be traditional foundation plantings around the front of the house. They will have a gravel path around the south side of the house, and in the rear will be a flagstone terrace with a garden and lawn. In the far back of the yard there are a number of weed trees between their yard and Stonegate Lane but they have not decided what will be done in that portion of the yard.

Member Vlietstra stated the public hearing is still open and asked if anyone in the audience would like to speak.

- **Ken Morrow, 48 Sutherland Street**, asked about the proposal for lighting on the south side of the house. Member Vlietstra stated that the proposal is for 3 lights in soffits over the windows and a spotlight on the gable. Mr. Morrow stated his concern that the spotlight will shine on his property. He also requested dark-sky compliant lights be used.

The Board discussed the lighting situation with Mr. Schick. The applicant agreed to remove the spotlight that will shine towards Mr. Morrow's property and stated the wall mounted light fixtures that will be installed on the rear wall of the house are dark-sky compliant. Cutsheets of the dark-sky compliant lights were given to the Board. Mr Schick stated the wall mounted light fixture on the front of the house is shielded by the porch roof and a wall and will not be visible from Mr. Morrow's property. He also agreed to mount all lights at a height of 20ft or less.

Motion: Member Vlietstra made a motion, seconded by Member Shannon, to adjourn the meeting for a short break.

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

Motion: Member Vlietstra made a motion, seconded by Member Shannon, to reopen the meeting.

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

Motion: Member Vlietstra made a motion, seconded by Member Erwin, to retain the Landscape Architect, Mary Scipioni, for an estimated cost of \$440, with the terms of the contract that was signed in February 2018, conditioned on funds being paid in advance by the applicant.

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

Motion: Member Vlietstra made a motion, seconded by Member Erwin, to close the public hearing at this time.

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

The applicants requested that the Board vote on the application so they could start construction as soon as possible; they have complied with all of the requests of the Board. Member Vlietstra suggested that the Board wait until the Landscape Architect completes her review and issues a report before voting; he said he would be willing to consider holding a special meeting to conclude this review before the regularly scheduled March meeting. The applicant stated that compliance with the Landscape Architect's findings could be made a condition of approval. Member Erwin stated the review been held open for a number of months, and making this conditional on completion of any recommendations from the Landscape Architect would speed up the process and avoid the need for future meetings with the Planning Board. Members Stetzer and Shannon concurred with member Erwin.

Board members discussed the details of needed findings for site plans:

1. The Building Inspector has determined that the action does not create any Zoning violations.
2. The Village Engineer reviewed drawings submitted and the applicant has complied with changes requested by the Engineer to complete the application and address the Engineer's concerns.
3. Drainage **is** reasonably addressed by the applicant because the Village Engineer reviewed the Site Plans and made a site visit and found drainage to be adequately addressed by the Plans. The applicant submitted soil percolation test results and the adjacent property owner stated that soil drainage was excellent on his property. The Village Engineer visited the site shortly after a rainstorm and found no ponding on the site. All evidence suggests that the soil can adequately absorb stormwater runoff. Stormwater is retained on-site; the applicant does not propose a connection to the Village's stormwater system.
4. Utilities **are** adequate for the proposed use and **will not** negatively impact service to other properties and **will not** negatively impact public safety because:
The plans were reviewed by the Village Engineer and Fire Marshal and they had no objections.
5. Light fixtures **will not** introduce light trespass onto adjacent properties and the applicant has demonstrated that lighting **is / is not** adequate to address safety concerns because:
The spotlight on the South Elevation shall be removed and remaining spotlights shall be a height of 20ft or less and shall be pointed down and shall not have lighting elements or bulbs visible from property lines. Dark-sky compliant light fixtures shall be installed for the two wall mounted lights on the East Elevation.
6. The site **is** suitably landscaped because:
The site is to be planted with grass, various plantings, and trees.
7. The plans **will not** adversely impact adjacent properties because:
Construction fencing and/or protective mulching to protect trees shall be used as directed by Mary Scipioni to protect trees on neighboring properties from construction damage. Lighting shall be as specified in finding 5 to minimize impact on adjacent properties.
8. The Fire Marshal reviewed the Site Plans and made the following observations:
The driveway meets the 12ft width required for fire access and the pavement plans are adequate to support the weight of emergency vehicles. The Fire Marshal has no concerns about the plans.

9. The applicant submitted a memorandum from Don Frasier from the Monroe County Health Department, dated May 8, 2017, which stated that they reviewed the project through DRC and have no comments at this time.
10. Notification of the Action was sent to Sutherland High School and all adjacent neighbors. Sutherland High School is across the street from this property but the Board has not received any comments or concerns from the School.

Members discussed conditions of approval:

1. Outstanding lighting issues.
2. Compliance with the recommendations of the Landscape Architect.
3. APRB approval is needed.

Motion: Member Stetzer made a motion, seconded by Member Erwin, to adopt Resolution 2018-4, conditionally approving preliminary and final site plans for 44 Sutherland.

Discussion:

Member Vlietstra stated he would still like to see the Landscape Architect’s report before voting.

Vote: Shannon – yes; Vlietstra – no; Erwin – yes; Stetzer - yes. *Motion carried.*

**VILLAGE OF PITTSFORD
PLANNING BOARD**

RESOLUTION 2018-4 DECISION ON SITE PLAN

Project 44 Sutherland St. demolish and replace house Date: 02-26-2017

Applicant Name: Jon Schick

Address: 278 Ease Avenue

Rochester, NY 14604

Action: Demolish existing house at 44 Sutherland St. and construct a new single family ~3420sqft 2-story house with 3-car attached garage.

At a meeting of the Planning Board of the Village of Pittsford (the “Board”) duly convened on February 26, 2018, at 7 PM at Village Hall, 21 N. Main St, Pittsford, NY 14534,

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

WHEREAS, on January 19, 2017 the Applicant applied to the Village of Pittsford Planning Board (the “Board”) for site plan approval to construct the Replacement House, which would be new 3420 SF, 2-story, wood frame residence with attached 3- car garage to replace the existing residence to be torn down, and

WHEREAS, the Planning Board conducted public hearings on the Proposed Action on February 27, 2017; March 20, 2017; April 4, 2017 (special meeting); April 17, 2017; May 8, 2017 (special meeting); May 15, 2017; June 19, 2017; January 22, 2018; and February 26, 2018.

WHEREAS, The Board has held a public hearing, and received comments thereat; and

WHEREAS, The Board makes the following findings regarding review requirements for this action:

1. State Environmental Quality Review (SEQR):
 - a. On April 4, 2017, the Planning Board classified the action as Type I under the New York State Environmental Quality Review Act ("SEQRA").
 - b. On June 19, 2017, the Planning Board declared itself to be lead agency under SEQRA.
 - c. On June 19, 2017, the Planning Board issued a positive declaration of environmental significance for the Proposed Action under SEQRA, finding that there is a potential for at least one or more potentially significant adverse environmental impacts that may result from the Proposed Action.
 - d. On December 5, 2017 Judge Odorisi ordered "the PZBA's SEQRA resolutions are annulled, and the matter is reclassified as a Type II Action, with no further environmental review required." Index #: 17/7421.
2. The application was referred to Monroe County Planning for review pursuant to General Municipal Law section 239-m and Monroe County Planning responded to the 239-m referral with no recommendations.
3. Waterfront Consistency Review:
 - a. The proposed action is not within the Village's waterfront area so it is not subject to a waterfront consistency review.
4. The proposed action **Does Not** require approvals from state or county agencies. Separate review of Preliminary and Final Site Plans **Is Not** required.

WHEREAS, after review, the Planning Board has weighed the effects of the requested action on health, safety and welfare of the neighborhood and community, and made the following findings:

1. The Building Inspector has determined that the action does not create any Zoning Violations.
2. The Village Engineer reviewed drawings submitted and the applicant has complied with changes requested by the Engineer to complete the application and address the Engineer's concerns.
3. Drainage **is** reasonably addressed by the applicant because the Village Engineer reviewed the Site Plans and made a site visit and found drainage to be adequately addressed by the Plans. The applicant submitted soil percolation test results and the adjacent property owner stated that soil drainage was excellent on his property. The Village Engineer visited the site shortly after a rainstorm and found no ponding on the site. All evidence suggests that the soil can adequately absorb stormwater runoff. Stormwater is retained on-site; the applicant does not propose a connection to the Village's stormwater system.
4. Utilities **are** adequate for the proposed use and **will not** negatively impact service to other properties and **will not** negatively impact public safety because:

The plans were reviewed by the Village Engineer and Fire Marshal and they had no objections.

5. Light fixtures **will not** introduce light trespass onto adjacent properties and the applicant has demonstrated that lighting **is / is not** adequate to address safety concerns because:

The spotlight on the South Elevation shall be removed and remaining spotlights shall be a height of 20ft or less and shall be pointed down and shall not have lighting elements or bulbs visible from property lines. Dark sky compliant light fixtures shall be installed for the two wall mounted lights on the East Elevation.
6. The site **is** suitably landscaped because:

The site is to be planted with grass, various plantings, and trees.
7. The plans **will not** adversely impact adjacent properties because:

Construction fencing and/or protective mulching to protect trees shall be used as directed by Mary Scipioni to protect trees on neighboring properties from construction damage. Lighting shall be as specified in finding 5 to minimize impact on adjacent properties.
8. The Fire Marshal reviewed the Site Plans and made the following observations:

The driveway meets the 12ft width required for fire access and the pavement plans are adequate to support the weight of emergency vehicles. The Fire Marshal has no concerns about the plans.
9. The applicant submitted a memorandum from Don Frasier from the Monroe County Health Department, dated May 8, 2017, which stated that they reviewed the project through DRC and have no comments at this time.
10. Notification of the Action was sent to Sutherland High School and all adjacent neighbors.

Sutherland High School is across the street from this property but the Board has not received any comments or concerns from the School.

NOW, THEREFORE, BE IT RESOLVED, the Board **does** herein waive the balance of application requirements required under the Village of Pittsford Zoning Code section 210-84.A because it finds the Site Plan application contains **adequate** information and the missing application factors **are not** necessary to evaluate the action's impacts on public health, safety, or general welfare.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby **grant Preliminary Site Plan Approval and Final Site Plan Approval** of the site plan dated January 30, 2018 with the following conditions:

1. The Architectural and Preservation Review Board shall grant a certificate of approval for the Action and all approved plans shall conform to the Final Site Plans.
2. Final Site Plan approval shall expire if the applicant does not obtain a building permit for the action within 1 year of the adoption date of this resolution.
3. Exterior light fixtures shall have a color of 2700K – 3000K (warm white) and shall comply with requirements specified in finding 5; the spotlight on the south elevation shall be removed and all other spotlights shall be pointed down be no more than 20ft high and bulbs/lighting elements shall not be visible from property lines.
4. The two wall mounted lights on the East Elevation shall be Dark Sky compliant as presented on 2/26/2018 meeting.
5. Recommendations by landscape architect Mary Scipioni shall be incorporated as a condition of site plan approval. In particular she shall make recommendations on construction fencing, protective

mulch, and any other measures to protect neighbors' trees near the property lines.

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

Renee Stetzer - Yes
Heather Erwin - Yes
JoAnne Shannon - Yes
Justin Vlietstra - No
Susan Lhota - Absent

Dated: February 26, 2018

By order of the Planning Board of the Village of Pittsford

~~~~~

**[Comments from the landscape architect dated March 5, 2018 are below]**

Village of Pittsford  
Att.: Planning Board  
21 North Main Street  
Pittsford, NY 14534

March 5, 2018

RE: 44 Sutherland –Mattia Residence

To The Board:

I have reviewed the site drawings relative to this project and believe that the changes presented (01-30-18 revision on the site plan C1.2) will minimize the impact to the trees along the property line on both sides. More specifically:

If all required protections are followed, the construction of the retaining wall on the north side will likely not adversely impact the adjacent tree. I have included precautionary measures to protect the trees below.

The French drain will also reduce the impact of construction to the trees on the south property boundary insofar as root system intrusion is concerned. Changes in drainage may also impact trees like Pines. To that end, guidelines for the French drain are as follows:

- The French drain, i.e., the gravel-filled trench itself, does not need to be pitched unless required to accommodate the pitched pipe (e.g., to achieve coverage depth).
- The pipe should have 12" of cover at all locations.
- The pipe does not need to be pitched at 3%. It can be pitched at 1% if the trench is properly designed.

- Perforated pipes should be wrapped in geotextile fabric to prevent fine soil from clogging.
- The trench itself should be lined in geotextile fabric for stability against migration of the stone material into the soil.

Precautionary measures to protect trees include:

- Fertilization of the Pine and the Spruce prior to construction activities.
- Pruning of the Pine for stability and balance prior to construction if needed.
- Application of an 8" mulch layer over the root systems of the trees to protect them from soil compression due to construction activities. The mulch will be outside of the protective fencing (see below) and extend to a distance of 10' from the trunk of the tree in every direction. This layer must be maintained throughout construction, and the mulch can be spread where needed afterward. After heavy rainfall, mulch should be loosened with a pitchfork for airflow.
- Protective orange construction fencing around each tree in the vicinity of construction activities, minimum 3' high, with metal stakes located at 6' intervals. This fencing should be located at 6' from the trunk for the Pine and Spruce (south) and at 4' from the trunk of the Norway Maple (north).
- Follow up application of fertilizer after one year.

Sincerely,

Mary Adelaide Scipioni, RLA

~~~~~

Member Vlietstra left the meeting room at this time.

Pittsford Canalside Properties, 75 Monroe Avenue

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

Discussion: Member Shannon stated that she will be the Acting Chairperson for the 75 Monroe Avenue matter.

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. PCP submitted an Application for a Certificate of Approval to the APRB on October 23, 2017. On November 4, 2017, the APRB passed a resolution which, among other things, 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. The APRB also referred the application to the Planning Board to determine whether it conforms to the final approved site plan.

The Board will be considering two very limited issues: (1) whether the October 2017 submission to the APRB conforms to the 2014 approved final site plan; and (2) whether the Westport Crossing project is

consistent with the policies set forth in the Village's Local Waterfront Revitalization Program. Public comments will be limited to those issues. The purpose of the public comment period is for the Planning Board to receive comments, not answer questions.

Site Plan

Board members have a copy of PCP's Application for a Certificate of Approval to the APRB, dated October 23, 2017. At the January 22nd meeting, the Board identified the contents of that application. The Planning Board reviewed the 2014 site plans that are on file at the Village Hall. It appears that there are discrepancies between PCP's 2018 Site Plan.

First, the revision dates and comments do not appear to match. The final Approved Site Plan shows Revision 3 as having a revision date of 11/11/14, and its description is "Revised per Addendum No. 7." PCP's 2018 Site Plan shows Revision 3 as having a revision date of 2/11/15, and its description is "Revised per Village comments." Moreover, the revision dates and comments for Revision 4 also do not match.

Mr. Powers explained that typically, engineer's site plans have a revision block, and this block can hold only about 7 or 8 items. As additional revisions are added, the first revisions are deleted. He stated that nothing is different in the body of the site plan; the discrepancy is in the revision block. Mr. Powers will submit a list of all the revisions to the original approved site plan.

The Final Approved Site Plan shows Revision 4 as having a revision date of 11/25/14, and its description is "Revised per Village and agency comments." PCP's 2018 Site Plan shows Revision 4 as having a revision date of 3/30/15, and its description is "Revised per Village Engineer comments." In addition, there may be substantive differences between the Final Approved Site Plan and PCP's 2018 Site Plan. Finally, it is clear that PCP revised the final site plan after receiving final site plan approval from the Planning Board in November 2014.

Mr. Powers stated that after receiving Planning Board approval, the applicants began working with various agencies. A number of the revisions to the site plan are a result of review of the plans with the Village Engineer, Scott Harter.

PCP's cover letter to the Planning Board describes PCP's 2018 Site Plan as "reflecting the final site plans as were approved by the Planning and Zoning Board of Appeals, and revised multiple times to address the Village Engineer's comments, with latest building footprints as revised by the Architectural and Preservation Review Board overlaid in red."

Member Erwin explained to the applicant that the Board will need time to review these revisions. She also asked that the applicant explain revisions to the site plan that were made on February 11th, March 30th, May 27th, and July 6th, of 2015, and January 24th of 2018. She also asked that the applicant provide the proposed dimensions of Buildings 1000, 2000, 3000, 4000, 5000, and 6000 in PCP's October 2017 application.

Member Stetzer asked the applicant if the road layout in the October 2017 application is the same as the road layout in the 2014 approved site plan. The applicant stated that the road layout is the same.

Member Stetzer stated that according to the summary of building footprint changes, the square footage of building 1000 will be reduced by 1609 square feet, the square footage of building 2000 will be reduced by 821 square feet, the square footage of building 3000 will be reduced by 1142 square feet, the square footage of building 4000 will be reduced by 1286 square feet, and the square footage of building 5000 will

be reduced by 983 square feet. She asked whether any of these buildings have underground parking. Mr. Powers stated that Buildings 1000 through 5000 have underground parking. Member Stetzer asked if the proposed reduction in building square footage will impact the number of underground parking spaces in any of the buildings, and Mr. Powers stated that the proposed reduction in building size will not impact the number of underground parking spaces. Member Stetzer asked if the proposed reduction in building square footage will impact the number of above-ground parking spaces in the proposed development, and Mr. Powers stated that the proposed reduction in building size will not impact the number of above-ground parking spaces.

Member Stetzer asked if the parking lot layout in the October 2017 application is the same as the parking lot layout in the 2014 approved site plan. Mr. Powers responded that the parking layout is the same. Member Stetzer asked if the landscaping in the October 2017 application is the same as the landscaping in the 2014 approved site plan. Mr. Powers stated that the landscaping plan will be the same, but that it hasn't been detailed in the 2017 plan. Member Erwin stated that the Board will need the details of the landscaping plan for their review.

Mr. Powers stated that other than the building square footage, the October 2017 plan is the same as the 2014 approved site plan.

Member Erwin expressed a concern with the location of the sidewalk at Building 6000. Mr. Powers explained that the APRB requested that this building have a greater presence near Monroe Avenue.

Member Stetzer asked if there were any comments from the public, and no one from the public responded.

Member Erwin stated that the applicant needs to submit a complete site plan for the Board to review. Mr. Powers stated that he will provide: (1) all revision notes from 2014 to present, (2) the nominal widths and lengths of all the buildings, and (3) stamped landscape plans.

Board members discussed hiring a consultant to review the plans. Mr. DiMarzo suggested that the Village Engineer, Scott Harter, is familiar with the plans and would be qualified to review the site plan.

The following resolution was proposed by Member Shannon, and seconded by Member Erwin:

WHEREAS, the Planning Board requires the assistance of qualified consultants to help determine whether PCP's October 2017 submission conforms to the approved site plan,

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 § 210.110.B, retain the services of qualified consultants to determine whether PCP's October 2017 submission conforms to the approved site plan; 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 consultant as hereinafter determined by the Planning Board.

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

Motion: Member Shannon made a motion, seconded by Member Erwin, to continue this matter at the March 19, 2018 Planning Board meeting.

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

LWRP Review:

Member Shannon stated that on January 22, 2018, PCP delivered a Coastal Assessment form to the Planning Board.

The applicant will have 15 minutes to explain why the Planning Board should find that the Westport Crossing project is consistent with the Village's Local Waterfront Revitalization Program (the "LWRP"). The applicant is reminded that the Board will consider public comments and will not answer questions. Then the meeting will be opened up for public comment. Each speaker will be limited to 3 minutes. The Board requests that each speaker address comments to the Board and not to the applicant. The applicant may be asked to respond to the public comment.

Motion: Member Shannon made a motion, seconded by Member Stetzer, to open the public hearing at this time.

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

Member Shannon asked if the applicant would like to speak in support of its request that the Board determine the Westport Crossing development to be consistent with the LWRP.

Mr. Powers explained that the Local Waterfront Consistency Review is Village Code Chapter 121, and section 121-5 is the process by which the review is conducted.

1. The Westport Crossing development is located within the R-5 Zoning District. The amenities that are proposed along the canal waterfront, including docks for public use, walkways for public access, and facilities for public comfort, enhance community character, preserve open space, and make beneficial use of the waterfront location.
2. The Westport Crossing development project provides a new waterfront use in a location that is in close proximity to multiple water-enhanced uses.
3. The requirements of § 121-5(G)(3) are not applicable, as no agricultural lands exist on the site.
4. The requirements of § 121-5(G)(4) are not applicable as marine resources are not prevalent on the site, per the SEQRA process.
5. The requirements of § 121-5(G)(5), regarding ecological resources, have been met. As a result of being involved in the New York State DEC Brownfield program, this project will enhance ecological resources within the local waterfront.
6. The requirements of § 121-5(G)(6) have been met. As a result of being involved in the New York State Brownfield program, the remediation of the site will improve the water quality of the canal.
7. The requirements of § 121-5(G)(7), dealing with flooding and erosion, have been met. This site has a stormwater management design that is consistent with the Village of Pittsford's and the NYS DEC's Stormwater Management Design Manual to protect natural resources from flooding and erosion.

8. The requirements of § 121-5(G)(8), regarding air quality, have been met. As a result of being involved in the New York State Brownfield program, this project will protect and improve air quality of the local waterfront.
9. The requirements of § 121-5(G)(9) have been met. As a result of being involved in the New York State Brownfield program, this project will minimize environmental degradation in the LWRP area.
10. The requirements of § 121-5(G)(10), regarding public access, have been met. Public access and recreational use will be provided to the canal as part of the project development. Currently, there is no public access to the canal within this property.
11. The requirements of § 121-5(G)(11), regarding visual quality and protection of scenic resources, have been met. The visual quality of this site will be enhanced from what was once an industrial use site, with unsightly petroleum storage tanks and nondescript utilitarian outbuildings. There will be further improvement with the addition of landscaping and proposed amenities along the canal frontage.
12. The requirements of § 121-5(G)(12), regarding preserving historic resources of the LWRP area, have been met. The architectural design of the buildings is being modeled after “canal commercial” buildings which historically had been present within the developed areas along the canal. Each building on the site will be uniquely different to be compatible with the style of Schoen Place and other authentic Erie Canal commercial historic sites.
13. The requirements of § 121-5(G)(13), regarding conformance to the State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617), have been met. This project went through an extensive SEQR review, and was issued a Negative Declaration on August 9, 2012.
14. The requirements of § 121-5(G)(14), regarding environmental resource preservation, have been met. As has been demonstrated, this project will not have a negative environmental impact on the canal.
15. The requirements of § 121-5(G)(15) have been met. This project will not involve any dredging of the canal or disposal of dredged materials.

Member Shannon asked if anyone else would like to speak for or against the application.

- Mike Reynolds, 35 Church Street, commented that the list of the 15 items for LWRP consistency review was not included in the notice to the public that was published in the newspaper. He stated that he disagreed with the comments that the project has the appearance of a “Canal Commercial” style, which has large buildings surrounded by small buildings. He also stated that native vegetation was not preserved because trees were removed.

The applicant declined to respond to these comments from the public.

As there was no one else wishing to speak for or against this application, Member Shannon made a motion, seconded by Member Erwin, to close the public hearing, but leave open the public comment period for written comments regarding the consistency determination.

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

Member Shannon stated that Village Code Chapter 121 sets forth the factors that the Board is required to consider in evaluating the consistency of a proposed action with the LWRP. The Village’s LWRP gives content to what each of the factors means. The Board will identify which of the factors is relevant to the Westport Crossing project, and tentatively narrow the scope of the deliberations so that the Board focuses only on issues that are appropriate for the Westport Crossing proposal. This tentative list of factors will remain open until the public comment period closes, so that the public and applicant may provide further written comment on the factors that the Board will consider in making a consistency determination.

The factors for consideration are set forth in Village Code 121-5(G).

Village Code §121-5(G)(1) states that the proposed action must:

Foster a pattern of development in the LWRP area that incorporates the design guidelines contained in Section V of the LWRP and which enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of the waterfront location, and minimizes adverse effects of development (LWRP Policy 1), takes advantage of the community’s location on the canal to provide amenities for residents and visitors and guides future development so that it complements, not competes with or detracts from, the historic village.

Board members determined that this is clearly a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(2) states that the proposed action must:

Protect water-dependent uses, promote siting of new water-dependent uses in suitable location, and support efficient harbor operation (LWRP Policy 10).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(3) states that the proposed action must:

Protect existing agricultural lands within the LWRP area (LWRP Policy 12).

Board members determined that this factor is not relevant and is not a matter that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(4) states that the proposed action must:

Promote sustainable uses of living marine resources in coastal waters (LWRP Policy 11).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(5) states that the proposed action must:

Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities (LWRP Policy 6).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(6) states that the proposed action must:

Protect and improve water resources (LWRP Policy 5).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(7) states that the proposed action must:

Minimize loss of life, structures, and natural resources from flooding and erosion (LWRP Policy 4).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(8) states that the proposed action must:

Protect and improve air quality in the LWRP area" (LWRP Policy 7).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5 (G)(9) states that the proposed action must:

Minimize environmental degradation in the LWRP area from solid waste and hazardous substances (LWRP Policy 8).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(10) states that the proposed action must:

Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the LWRP area (LWRP Policy 9).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(11) states that the proposed action must:

Enhance visual quality and protect outstanding scenic resources (LWRP Policy 3).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(12) states that the proposed action must:

Preserve historic resources of the LWRP area (LWRP Policy 2).

Board members determined that this is a factor that the Board will need to discuss in connection with this project.

Village Code §121-5(G)(13) states that the proposed action must:

Conform to the State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617).

The Village Board determined that the Westport Crossing proposal is a Type I action subject to SEQRA and issued a Negative Declaration. Therefore, no further SEQRA review is necessary.

Village Code §121-5(G)(14) states that the proposed action must:

All actions must adhere to Village protective measures for environmental resource preservation (Pittsford Environmental Guidebook and the Greenprint for Pittsford's Future).

Board members determined that the property is not within the Greenprint.

Village Code §121-5(G)(15) states that the proposed action must:

Perform dredging and disposal of dredge spoil materials in a manner which is protective of natural resources. (LWRP Policy 2).

The applicant stated that this project will not involve any dredging of the canal or disposal of dredged materials.

Member Shannon stated that this matter requires careful consideration and the Board will benefit from additional time before starting deliberations. The public hearing has been closed and the public comment period was left open.

Motion: Member Shannon made a motion, seconded by Member Erwin, to keep the public comment period open until the next regularly scheduled meeting on March 19th.

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

Member Shannon stated that the Board will commence deliberations on the LWRP review on March 19th. This will give the Board enough time to reach a determination within the 60-day period required by Village Code §121-5(E), which expires on March 23rd.

Motion: Member Shannon made a motion, seconded by Member Erwin, to adopt Resolution 2018-5.

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

**VILLAGE OF PITTSFORD
ZONING BOARD OF APPEALS**

RESOLUTION 2018-5 DECISION ON JOINT DEFENSE AGREEMENT

Action: Authorize Planning and Zoning Board of Appeals attorney to execute Joint Defense Agreement

At a meeting of the Planning and Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened on February 26, 2018, at 7PM at Village Hall, 21 N. Main St, Pittsford, NY 14534, the following resolution was offered by Board Member Shannon, who moved its adoption, and seconded by Board Member Erwin, to wit:

Attorney Mindy Zoghlin is authorized to execute the proposed Joint Defense Agreement with the Village Board of Trustees and the APRB.

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

Justin Vlietstra - Abstain
Renee Stetzer - Yes
Heather Erwin - Yes
JoAnne Shannon - Yes
Susan Lhota - Absent

Dated: 2-26-2018

Pittsford, New York

By order of the Village of Pittsford Zoning Board of Appeals

~~~~~

**Member Items:**

➤ **Minutes:**

**Motion:** Member Vlietstra made a motion, seconded by Member Shannon, to approve the 1/22/18 minutes, as revised.

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

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Shannon, to adjourn the meeting at 10:15 pm.

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

---

Linda Habeeb, Recording Secretary