

**VILLAGE OF PITTSFORD  
PLANNING AND ZONING BOARD OF APPEALS**  
Regular Meeting July 15, 2019 at 7:00 PM

**PRESENT:**

Chairperson: Justin Vlietstra  
Members: Jo Anne Shannon  
Susan Lhota  
Eli Bannister  
Justin Leitgeb

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

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Shannon, to open the workshop meeting at 6:30 pm.

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**The board reviewed application materials for the night's meeting.**

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Lhota, to close the workshop meeting and call the regular meeting to order at 7:00 pm.

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**Conflict of Interest Disclosure:**

- Member Vlietstra stated that he will recuse himself from the discussion of the 75 Monroe Avenue project because he has made numerous public statements about the project prior to joining the PZBA.

**Buffalo Bills, Inc., Sutherland High School - Temporary Permit**

**The legal notice was published in the June 27, 2019 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, on Monday July 15, 2019 at 7:00 pm at the Village Hall, 21 North Main Street, Pittsford, NY, to consider an application made by the Buffalo Bills, Inc., for a temporary zoning permit to use the Sutherland High School parking lot for vehicle parking for attendees of the Buffalo Bills training camp during the 2019 season, pursuant to Chapter 210-109, Temporary Permits, of the Code of the Village of Pittsford."*

**Discussion:** The Buffalo Bills, LLC, are proposing to utilize the Sutherland High School parking lot in the same manner that was approved by the Zoning Board in past years. For the past 18 years, the Bills have used St. John Fisher College's campus as the location of the Bills' training camp in preparation for the upcoming football season. In order to provide parking for spectators of the training camp, the Bills have received permission from the School District to

use parking space located at Sutherland High School for satellite parking. The high school parking lot will be serviced by 8-12 shuttle buses, which will be operated by fully insured and licensed drivers, with each bus running at staggered times about 15 minutes apart. There will be at least one parking attendant at the high school parking lot during each day of the lot's use. The Bills have provided the training camp and shuttle schedules.

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

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

➤ A member of the audience expressed support for granting a permit to the Buffalo Bills.

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

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**Motion:** Member Vlietstra made a motion, seconded by Member Shannon, to adopt Resolution 2019-14, approving the temporary Zoning permit, with the conditions as stated in the resolution.

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

## Village of Pittsford Zoning Board of Appeals

### RESOLUTION 2019-14 - Decision on Temporary Zoning Permit

**Project:** Buffalo Bills Temporary Zoning Permit **Date:** 07-15-2019

**Applicant Name:** Buffalo Bills, LLC

**Address:** One Bills Drive  
Orchard Park, NY 14127

**Action:** Seasonal operation of a shuttle bus and parking for Buffalo Bills training camp

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

**WHEREAS**, the Village of Pittsford Zoning Board of Appeals (the "Board") received an application from Buffalo Bills, LLC for a temporary zoning permit to allow the seasonal operation of a shuttle bus and parking for Buffalo Bills training camp (the "Proposed Use" or "Event") at Sutherland High School, pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford, and

**WHEREAS**, in connection with such application, the Zoning Board of Appeals has received and reviewed an application, 2019 Parking Authorization letter from the Pittsford Central School District, request letter from Applicant's counsel, 2019 Bills' Training Camp Schedule, shuttle bus schedule and route, and Certificates of Insurance, 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 6NYCRR 617.5(c)(21).

2. Monroe County Planning Review:

This application involves a seasonal temporary permit and is therefore exempt from GML 239-m 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 a type 2 action under SEQR so it is not subject to a waterfront consistency review.

**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 will be held at Sutherland High School which is in the R-1 residential district.
2. The Proposed Use will utilize shuttle buses and is similar in nature and impact to normal activities occurring at Sutherland High School.

3. The route driven by shuttle busses was selected to minimize traffic on residential streets.
4. The Proposed Use will not introduce substantial adverse impacts on the surrounding neighborhood, taking into account the temporary nature of the use.
5. The Proposed Use will not tend to depreciate the value of adjacent property, taking into account the temporary nature of the use.
6. The Proposed Use will not create a hazard to health, safety or general welfare.
7. The Proposed Use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.
8. The Proposed Use is a renewal of a prior approval and the Event has been successfully executed in the past.

**NOW THEREFORE, IT IS RESOLVED** that the application from Buffalo Bills, LLC, for a temporary zoning permit to allow the seasonal operation of a Shuttle Service at Sutherland High School 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 shuttle bus service may be operated in accordance with the Buffalo Bills Training Camp 2019 Satellite Parking Lots and Shuttle Schedule, a copy of which is attached hereto as Exhibit "A", plus reasonable setup and take down time. The Building Inspector shall determine reasonable setup and take down time and may authorize, in writing, changes to the location or permitted dates and hours of operation.
2. All signage for the Event shall be removed at the conclusion of the Event. The Building Inspector shall determine that signage is appropriate in quantity, size, and location.
3. All trash shall be removed at the end of each day of operation.
4. Portapotties shall be regularly cleaned and maintained so they do not produce offensive odors.
5. Village Code Enforcement Officials shall be allowed to conduct all

necessary code inspections prior to, and during, the Event as necessary.

6. The applicant will inform the Village if they receive any complaints or requests regarding the Event.
7. The ZBA reserves the right to revoke the temporary zoning permit if the Event 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.
8. The Applicant shall maintain a liability insurance policy of at least \$1,000,000 naming the Village of Pittsford as certificate holders.

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

Justin Vlietstra - Yes  
Susan Lhota - Yes  
Eli Bannister - Yes  
JoAnne Shannon - Yes  
Justin Leitgeb - Yes

Dated: July 15, 2019

Pittsford, New York

By order of the Village of Pittsford Zoning Board of Appeals

Exhibit A

**Buffalo Bills Training Camp 2019 Open Hours**

<b>Day</b>	<b>Date Hours</b>	<b>Practice Times</b>	<b>Operational Hours</b>
Thursday	July 25, 2019	9:45am-11:45am	8:45am-12:45
Friday	July 26, 2019	9:45am-11:45am	8:45am-12:45 -
Saturday	July 27, 2019	9:45am-11:45am	8:45am-12:45
Sunday	July 28, 2019	9:45am - 11:45am	8:45am -12:45
Monday	July 29, 2019	Closed	
Tuesday	July 30, 2019	9:45am-11:45am	
Wednesday	July 31, 2019	9:45am - 11:45am	8:45am -12:45
Thursday	August 1, 2019	9:45am - 11:45am	8:45am
Friday	August 2, 2019	Night Practice	New Era Field
Saturday	August 3, 2019	Closed	
Sunday	August 4, 2019	2:45pm - 4:45pm	1:45pm -5:45
Monday	August 5, 2019	9:45am - 11:45am	8:45am -12:45
Tuesday	August 6, 2019	9:45am- 11:45	8:45am- 12:45

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**James Peacock, 8 North Main Street** ~ Area variance for a free-standing sign

**Present:** James Peacock, Premier Sign Systems

**Discussion:** Chairperson Vlietstra stated that this is a continuation of an open public hearing for an area variance for installation of a sign on the business located at 8 North Main Street. The applicant had originally applied to install a free-standing sign on the property. Member Vlietstra explained that the Zoning Code does not permit free-standing signs in this residential district. The Code allows a one-square-foot building-mounted sign. He further stated that the decision to grant an area variance for the sign will be based on the five criteria for granting area variances. The main issue is whether the benefit to the applicant outweighs the impact on the community.

The applicant revised the application to propose installation of a 3' x 8" wooden hanging sign on the front porch of the building. The building is a historic house that is used as an office. The wide and short sign is challenging to mount because the building has few mounting options for a sign. Board members noted that the building is located next to a commercial building in a commercial district and across the street from a bank. They concluded that a small sign is consistent with the surrounding area. This property is the first in the R-4 district and since adjacent properties are



**WHEREAS**, The Board received and reviewed an application from the above-mentioned applicant for the above-mentioned action; and

**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):**

The Action involves construction of a non-residential structure involving less than 4000 square feet of gross floor area and is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(9).

**2. Monroe County Planning Review:**

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:**

The proposed action is a Type II action under SEQR so it is not subject to a Waterfront Consistency Review.

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

- A. The requested variance **will not** create an undesirable change in the character of the neighborhood or detriment to nearby properties in that it's a wooden sign on an old historic house. Next door is a commercial building in a commercial district. There are no adjacent residentially used properties. A small sign will not look out of place.
- B. The benefits sought by the applicant **cannot** be achieved by some other feasible method because the building has few mounting options for a sign due to a porch roof, windows, shutters, and other architectural details. The logo and business name require a wide short sign; if appropriately sized text is used to make it legible from a modest viewing distance then the sign width cannot be mounted in a traditional location on the building.
- C. The requested variance **is not** substantial in that the sign is only 3' x 8" and is smaller than typical commercial signs.
- D. The proposed variance **will not** have an adverse effect or impact on the physical



and environmental conditions of the neighborhood or district because: it's a wooden sign on an old historic house. Next door is a commercial building in a commercial district. There are no adjacent residentially used properties. A small sign will not look out of place.

E. The alleged difficulty **is** self-created because: the desire for a sign is self-created, but this alone does not preclude granting an area variance.

F. The Variance **is** the minimum necessary to provide relief because: there is no way to make a smaller sign with a logo visible from the street and sidewalk.

G. The following physical characteristics of the property are relevant to this variance request: the building faces and abuts a commercial district. A bank is across the street.

H. The following additional findings are noted:

This option appears to be the best option for the site. The building looks like a house, but is used as an office. It is well preserved and will still look like a historic house. The sign can easily be removed to return the building to its original character.

**NOW THEREFORE IT IS RESOLVED** by the Zoning Board of Appeals of the Village of Pittsford that this area variance request is hereby **granted** for the reasons stated above, subject to the following conditions:

1. This approval is only for a wooden sign with 3' width, 8" high, and 2.5 inch high letters, as depicted.
2. Approval of sign materials and sign style by the HPB.

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

|                  | <b>Yes</b> | <b>No</b> | <b>Abstain</b> |
|------------------|------------|-----------|----------------|
| Justin Vlietstra | <b>X</b>   | D         | D              |
| Susan Lhota      | <b>X</b>   | D         | D              |
| JoAnne Shannon   | <b>X</b>   | D         | D              |
| Eli Bannister    | <b>X</b>   | D         | D              |
| Justin Leitgeb   | <b>X</b>   | D         | D              |

**Dated: 07-15-2019**

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

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Chairperson,  
Zoning Board of Appeals

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**Colleen & Tom Bell, 7 Jackson Park ~ Site Plan Review**

**Present:** Colleen & Tom Bell, Homeowners

**The legal notice was published in the June 27, 2019 edition of the Brighton Pittsford Post:**

*"Please take notice that a public hearing will be held before the Village of Pittsford Planning Board at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday July 15, 2019 at 7:00 pm, to consider an application made by Thomas and Colleen Bell, owners of property located at 7 Jackson Park, for site plan review of the property located at 7 Jackson Park, pursuant to Village Code § 210-83(B)(15) & (16)."*

**Discussion:** The applicants are proposing a rear addition on the house located at 7 Jackson Park. They explained that they applied to the Historic Preservation Board for the addition, but the Board's architectural consultant had concerns with the proposal. They are before the Planning Board because the proposed addition is in excess of 400 square feet, but they are unsure whether they intend to proceed with construction of the addition at this point.

Member Vlietstra explained that the Board needs to determine if the proposed addition will have a negative impact on the surrounding neighbors' properties. He pointed out that the addition is minimally visible from the street. The yard is fenced in the rear of the property, and the house is located a distance from the neighbors. He further stated that the Board will review the drainage and the location of the downspouts on the property to determine that water will not encroach on the neighbors' yards.

The Board requested that the applicants submit a revised site plan indicating the location of the downspouts and any proposed exterior light fixtures. Member Vlietstra explained that the Village Code allows one bulb, 75-watt equivalent light fixtures that are below 20 feet in height. The main concern with the lights is whether the light spills onto neighbors' yards.

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

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

The public hearing will be continued at a special meeting on July 22<sup>nd</sup>. at 5pm.

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**Rachel's, 5 State Street, Inc., Area variance for parking**

**Present:** Gene Khoury, Business owner

**The legal notice was published in the June 27, 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 July 15, 2019 at 7:00 pm to consider an application made by Rachel's Grill, located at 5 State Street, for an area variance for required number of parking spaces. By occupancy under Village Code § 210-78 the establishment is required to have 9 permanent parking spaces and seeks to have relief for 6 permanent spaces based on previous approval for Starbucks allowing 25 seats in the establishment.*

**Discussion:** The applicant is proposing opening a restaurant at 5 State Street, the former Starbucks location. Chairperson Vlietstra stated that the decision to grant an area variance will be based on the five criteria for granting area variances. The main issue is whether the benefit to the applicant outweighs the impact on the community.

Mr. Lauth explained that Village Code requires the business to have 8 permanent parking spaces, and the applicant is seeking relief to have 6 permanent spaces, one of the parking spaces is shared with the Village Bakery next door. He is proposing to have 24 seats in the restaurant. The applicant has arranged parking for his employees offsite. There are bollards in one of the parking spaces. Mr. Lauth spoke with the owner of both businesses about replacing the bollards with planter boxes for pedestrian protection. He stated that there are 32 feet of space from the building to the sidewalk, minus 5 feet for the sidewalk, which leaves 27 feet. Mr. Lauth pointed out that this parking configuration was previously approved for Starbucks.

Member Vlietstra stated that the lot is an existing substandard lot, and he expressed concern for safety in the parking lot. He also noted that the proposal is not a high-intensity use, as the proposed use requires fewer parking spaces than a retail use. He stated that there is no more space for parking.

The property use has been abandoned for over 2 years, so the Board discussed whether the non-conforming parking lot should be re-established pursuant to §210-6. There is a municipal parking across the street and it could be possible to remove the parking lot, convert the parking lot to outdoor seating and landscaping, and add on-street parking. Members concluded that the proposed layout has been used in the past, is optimal for the site, and there are no good alternatives. Elimination of the parking lot would be cost prohibitive and greatly delay the project; realignment of the street to add on-street parking is a long process and its unreasonable for this action. Part of the parking lot is on Village owned property and may require taxpayer funds to reconfigure it.

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

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

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

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**Motion:** Member Vlietstra made a motion, seconded by Member Shannon, to adopt Resolution 2019-13 granting the area variance.

**Vote:** Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**VILLAGE OF PITTSFORD  
ZONING BOARD OF APPEALS**

**RESOLUTION 2019-13 DECISION ON AREA VARIANCE**

**Project:** 5 State St. Restaurant

**Date:** 07-15-2019

**Applicant Name:** Rachel's Grill  
**Address:** 225 Delaware Ave.  
Buffalo, NY

**Action:** Opening a new restaurant at 5 State St.

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened on July 15, 2019, 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 Shannon, to wit:

**WHEREAS**, The above-named applicant for an Area Variance of Sections **210-78** of the Zoning Law of the Village of Pittsford to permit operation of a 24-seat restaurant located at 5 State St, which is in the B1 Retail Business District where 8 parking spaces are required, but the existing parking lot provides 5 regular parking spaces plus 1 handicapped space;

**WHEREAS**, The Board received and reviewed an application from the above mentioned applicant for the above mentioned action; and

**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):**

The Action involves a change in use from vacant to a restaurant via a special use permit, interior rehabilitation work to accommodate the new use, minor exterior modifications to a nonresidential structure involving less than 4000 square feet of gross floor area which is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(18), 6 NYCRR 617.5(c)(2), 6 NYCRR 617.5(c)(9).

2. Monroe County Planning Review:

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:

The proposed action is a Type II action under SEQR so it is not subject to a Waterfront Consistency Review.

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

- A. The requested variance **will not** create an undesirable change in the character of the neighborhood or detriment to nearby properties in that it is an existing parking lot, and it was previously approved for the proposed parking configuration. It abuts the B1A district, which has no parking requirements.
- B. The benefits sought by the applicant **cannot** be achieved by some other feasible method because there is no way to run a business in this location and comply with parking requirements.
- C. The requested variance **is not** substantial in that two parking spaces is not substantial.
- D. The proposed variance **will not** have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district because it is an existing parking lot, and it was previously approved for the proposed parking configuration. It abuts the B1A district, which has no parking requirements.
- E. The alleged difficulty **is not** self-created because it's a substandard lot, and no business can comply with parking lot code.
- F. The Variance **is** the minimum necessary to provide relief because the proposed use requires fewer parking spaces than a retail use. There is no more space for parking.
- G. The following physical characteristics of the property are relevant to this variance request: it's a substandard lot and there is no way to construct more parking.

**NOW THEREFORE IT IS RESOLVED** by the Zoning Board of Appeals of the Village of Pittsford that this area variance request is hereby **granted** for the reasons stated above.

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

|                  | <b>Yes</b> | <b>No</b>                | <b>Abstain</b>           |
|------------------|------------|--------------------------|--------------------------|
| Justin Vlietstra | X          | <input type="checkbox"/> | <input type="checkbox"/> |
| Susan Lhota      | X          | <input type="checkbox"/> | <input type="checkbox"/> |
| JoAnne Shannon   | X          | <input type="checkbox"/> | <input type="checkbox"/> |
| Eli Bannister    | X          | <input type="checkbox"/> | <input type="checkbox"/> |

Justin Leitgeb

X

□

□

**Dated: 07-15-2019**

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

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Member Vlietstra left the meeting room at this time.

**Pittsford Canalside Properties, LLC, 75 Monroe Avenue ~ LWRP**

**The legal notice was published in the June 27, 2018 edition of the Brighton Pittsford Post:**  
*“Please take notice that a public hearing will be held before the Village of Pittsford Planning Board at the Village Hall, 21 North Main Street, Pittsford, New York, on Monday July 15, 2019 at 7:00 pm to consider a request from Pittsford Canalside Properties LLC to review new information regarding the LWRP compliance review of 75 Monroe Avenue in accordance with § 121-5(h)(1) of the Village Code.”*

**Discussion:** Acting Chairperson Lhota stated that on July 2, 2019, there was a court hearing on the Planning Board’s motion to dismiss the Article 78 action, and at that time, Judge Ark suggested, and both parties agreed, that PCP would send a letter to the PZBA asking for consideration of an LWRP consistency determination under Village Code section 121-5(h)(1). She acknowledged that Friends of Pittsford Village (FOPV) have provided the Board with additional documentation.

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

**Vote:** Shannon – yes; Vlietstra – abstain; Lhota – yes; Bannister – yes; Leitgeb – yes. *Motion carried.*

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

**Vote:** Shannon – yes; Vlietstra – abstain; Lhota – yes; Bannister – yes; Leitgeb – yes. *Motion carried.*

Under Village Code section 121-5(h)(1):

*(a) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions and design guidelines.*

Board members noted that there have been no changes to the plan submitted to the Board. Also, FOPV submitted documentation that states this in some detail, particularly the finding

that the project could be constructed with 90 units and still get a reasonable return on their investment.

*(b) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions and design guidelines.*

Board members determined that the project, as proposed, has several adverse effects on the community, particularly the area from the canal, the roadway entering the Village, and the neighborhood of the high school.

*(c) The action will advance one or more of the other LWRP policy standards and conditions and design guidelines.*

Member Lhota stated that there were several factors that the Board determined were consistent with the LWRP standards, including promoting water dependent uses; promoting siting of new water-dependent uses in suitable location and support efficient harbor operation; promoting sustainable uses of living marine resources in coastal waters; and protecting and improving water resources.

*(d) the action will result in an overriding village, regional or statewide public benefit.*

Member Lhota stated that there have been no changes.

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

**Vote:** Shannon - yes; Vlietstra - abstain; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

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

**Vote:** Shannon - yes; Vlietstra - abstain; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

**Motion:** Member Lhota made a motion, seconded by Member Leitgeb, to adopt Resolution 2019-15.

**Vote:** Shannon - yes; Vlietstra - abstain; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.*

### **RESOLUTION 2019-15 Village of Pittsford Planning Board**

At a regular meeting of the Village of Pittsford Planning Board held at the Village Hall on the 15<sup>th</sup> day of July 2019 at 7:00 p.m. The meeting was called to order by Justin Vlietstra and upon roll being called, the following were present:

PRESENT: Justin Vlietstra  
Susan Lhota  
JoAnne Shannon  
Eli Bannister  
Justin Leitgeb

Mindy L. Zoghlin, Esq., PZBA Attorney

ABSENT: None.

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

**WHEREAS**, by Resolution made March 18, 2019 and entered into the Office of the Pittsford Village Clerk on March 27, 2019, the Village of Pittsford Planning Board (the “Planning Board”) determined that the Westport Crossing Project was inconsistent with the waterfront consistency standards set forth in the Village of Pittsford Local Waterfront Revitalization Program for (hereinafter referred to as the “Planning Board Determination”); and

**WHEREAS**, Pittsford Canalside Properties, LLC (“PCP”) commenced an Article 78 proceeding in Monroe County Supreme Court challenging the Planning Board Determination in the matter of *Pittsford Canalside Properties, LLC v. Village of Pittsford Planning and Zoning Board of Appeals Planning Board*, Monroe County Supreme Court Index No. E2019004757 (the “Special Proceeding”); and

**WHEREAS**, Planning Board moved to dismiss the Special Proceeding for failure to exhaust administrative remedies; and

**WHEREAS**, at oral argument on the motion to dismiss, the Court suggested and the parties agreed to proceed as follows:

July 2, 2019: PCP will send a letter to the PZBA asking for consideration of an LWRP consistency determination under Village Code 121-5(H)(1).



July 15, 2019: The PZBA will consider PCP's request at its regularly scheduled meeting and issue a determination on or before July 15, 2019 concerning PCP's request for such consistency determination.

August 7, 2019: The PZBA will serve its answer and administrative return by ECF

August 13, 2019: PCP will reply by ECF

August 14, 2019: Oral argument before Justice Ark at 10:00 am

And,

**WHEREAS**, by letter dated July 2, 2019 PCP asked for consideration of an LWRP determination under Village Code 121-5(H)(1); and

**WHEREAS**, Friends of Pittsford Village (“FOPV”) has provided the Planning Board with documents for consideration in connection with Village Code 121-5(H)(1); and

**WHEREAS**, the Planning Board has considered Village Code 121-5(H)(1), which provides:

If the Planning Board (or agency, in a case when the Planning Board's determination is not forthcoming within the time period specified in Subsection (E), determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, and design guidelines, such action shall not be undertaken unless the Planning Board or agency makes a written finding with respect to the proposed action that:

- (a) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions and design guidelines.
- (b) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions and design guidelines.
- (c) The action will advance one or more of the other LWRP policy standards and conditions and design guidelines.
- (d) The action will result in an overriding village, regional or statewide public benefit.

**NOW THEREFORE, IT IS RESOLVED** that

- (a) a reasonable alternative DOES exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of LWRP policy standards and conditions and guidelines; and it is further
- (b) The action WOULD NOT be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions and design guidelines.
- (c) The action WILL advance one or more of the other LWRP policy standards and conditions and design guidelines:
  - Protect water-dependent uses, promote siting of new water-dependent uses in suitable location and support efficient harbor operation (LWRP Policy 2).

- Promote sustainable uses of living marine resources in coastal waters (LWRP Policy 4).
- Protect and improve water resources (LWRP Policy 6).
- Protect and improve air quality in the LWRP area (LWRP policy 8).
- Minimize environmental degradation in the LWRP area from solid waste and hazardous substances (LWRP Policy 10).
- Provide for public access to, and recreational use of, coastal waters, public lands and public resources of the LWRP area (LWRP Policy 11).
- All actions must conform to the State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617).

(d) The action WILL NOT result in an overriding village, regional or statewide public benefit.

**RESOLVED**, that the Planning Board **AFFIRMS** its determination that the proposed Westport Crossing project is inconsistent with the Village of Pittsford LWRP.

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

	Yes	No	Abstain
Justin Vlietstra	<input type="checkbox"/>	<input type="checkbox"/>	<b>x</b>
Susan Lhota	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
JoAnne Shannon	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
Eli Bannister	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
Justin Leitgeb	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>

Dated: July 15, 2019  
Pittsford, New York

By order of the Village of Pittsford Planning Board.

**Motion:** Member Vlietstra made a motion, seconded by Member Lhota, to adopt meeting minutes from 3/18/19 Minutes as revised.

**Vote:** Shannon – yes; Vlietstra – yes; Lhota – yes; Bannister – yes; Leitgeb - abstain. *Motion carried.*

**Motion:** Member Vlietstra made a motion, seconded by Member Lhota, to adopt meeting minutes from 6/17/19 Minutes as revised.

**Vote: Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.***

Member Vlietstra returned to the room.

**Motion:** Member Vlietstra made a motion, seconded by Member Lhota, to adjourn the meeting at 9:30 PM.

**Vote: Shannon - yes; Vlietstra - yes; Lhota - yes; Bannister - yes; Leitgeb - yes. *Motion carried.***