

**VILLAGE OF PITTSFORD  
PLANNING AND ZONING BOARD OF APPEALS  
Regular Meeting November 19, 2018 at 7:00 PM**

**PRESENT:**

Chairperson: Justin Vlietstra  
Members: Jo Anne Shannon  
Renee Stetzer  
Susan Lhota  
Eli Bannister (absent)

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

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

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

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

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

Chairperson Vlietstra asked the Board if there are any conflicts of interest to disclose. Members stated they had no conflicts.

**Pamela Schickler, 15 South Main Street ~ Special Exception Use Permit**

**Present:** Pamela Schickler, Business Owner

**The legal notice was published in the Brighton-Pittsford Post on November 1, 2018:** *"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 November 19, 2018 at 7:00 pm, to consider an application made by Pamela Schickler for a Special Exception Use for a recreational and instructional facility at 15 South Main Street, pursuant to Village Code §210-113B, Special exception uses."*

**Discussion:** The applicant stated that she is seeking a Special Exception Use Permit to conduct dance classes for children in the lower level of the building located at 15 South Main Street. She stated that the classes will initially be limited to approximately 6 hours a week, and the average class size is 10 students. Classes are for children that are generally below driving age. The classes will be held weekdays between 4pm & 9pm, and occasionally on Saturdays. It was pointed out that the Town Hall is located next to the business, and will be closed during most of the class times. Parents generally will park briefly in one of the three designated parking spaces in the rear parking lot, drop off the students, and leave until it's time to pick them up after class. She stated that it is more practical for the safety of the children for them to enter at the rear entrance, but the primary entrance in the front of the building is available for use also. The class times are staggered with 15-60 minutes between classes.

Member Vlietstra stated that one issue that the Building Inspector raised was that according to Village Code § 210.27(e), primary entrances to buildings or tenant spaces shall face the public right-of-way. Ms.

Schickler stated that customers can either park in the street and walk in the front door, or park in the rear parking lot and enter in the rear of the building.

Members pointed out that Town Hall next door needs a lot of parking when they are open during business hours. The proposed hours are when Town Hall is closed so this avoids conflicts. Having classes staggered with a gap between them allows for more orderly departures and arrivals with less conflict for parking. The Board discussed what restrictions should be placed on hours of operation. Village Code §210-26.A.23 permits up to 25 students per class and parking could be an issue during business hours if frequent classes were to be offered.

Ms. Schickler stated she would like to offer classes during business hours, particularly when kids are not in school. These will be longer since parents like to dropoff kids while they are at work. A reasonable limit is up to two courses may be offered per day during business hours. That would allow for two 4 hour classes or a full day class. Members thought limiting it to two classes seemed reasonable. Member Vlietstra stated that he frequently stops by the business district during business hours and can always find a parking spot.

Ms. Zoghlin explained that this action involves reuse of a commercial structure where the use is permitted by a special use permit. This action is a Type II action that is not subject to an environmental review under SEQRA pursuant to 6 NYCRR 617.5(c)(18).

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

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

- David Bruins, member of the First Presbyterian Church, expressed his support for this proposal.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Lhota, to close the public hearing at this time, as there was no one else wishing to speak about this proposal.

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

**Motion:** Member Vlietstra made a motion, seconded by Member Stetzer, to approve the application for a Special Exception Use, with the following conditions:

1. No more than 25 people can attend any classes, activities or events pursuant to §210-26.A.23.
2. Hours of operation for classes, events, and activities are limited as follows:
  - a. Weekdays 4PM - 9PM, no special restrictions.
  - b. Weekdays 8AM - 4PM, restricted to 2 classes, activities, or events per day
  - c. Weekends 7AM-10PM, no special restrictions.
3. Classes, events, and activities shall be at least 15 minutes apart to allow for orderly exits and arrivals.

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

**VILLAGE OF PITTSFORD  
ZONING BOARD OF APPEALS**

**RESOLUTION 2018-24 DECISION ON SPECIAL EXCEPTION USE PERMIT**

**Project:** 15 South Main Street Special Exception Use**Date:** 11-19-18

**Applicant Name:** Pamela Schickler  
**Address:** 15 South Main Street  
Pittsford, NY 14534

**Action:** Dance Classes and recreational/instructional classes and  
activities for children at 15 South Main St (Basement)

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened on November 19, 2018, at 7:00 PM 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 Stetzer, to wit:

**WHEREAS**, The Board received and reviewed an application from the above-named applicant for a Special Exception Use Permit pursuant to sections **210-26.A.23, and 210-113.B.2** of the Zoning Law of the Village of Pittsford; 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):
  - a. The Action involves reuse of a commercial structure where the use is permitted by a special use permit. This Action is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(18).
2. Monroe County Planning Review:
  - a. The Board's review is for a special use permit 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 a Type II action under SEQR so it is not subject to a Waterfront Consistency Review.

**WHEREAS**, The Board considered the following facts:

1. Classes are for children that are generally below driving age.
2. Because the children are generally below driving age they are being dropped off and not using parking spaces.
3. Town Hall is next door and needs many parking spots in the area during business hours.

4. Having time between classes allows for orderly arrivals and exit.
5. 15 S. Main has approximately 3 dedicated parking spaces for use for classes.
6. Additional parking is available on the street and in nearby municipal parking lots.
7. No changes to the exterior of the property are proposed.

**WHEREAS**, after review, the Board has evaluated the Action against the criteria established in the Village Zoning Law §210-113.B.2 and makes the following findings:

A. The Building Inspector has determined that the action does not create any Zoning Violations.

B. The Action is in harmony with the general purpose and intent of the zoning district, taking into account the location and size of the use, the nature, and intensity of the operations involved or conducted in connection with it and the size of the site with respect to the streets giving access thereto because: There will be classes of up to 25 students on evenings and weekends and limited classes during business hours. This will not be a substantially intrusive use of the property that would cause concerns for adjacent properties, particularly because the business is located within the business district, adjacent businesses are generally open during business hours, and limiting the classes during business hours prevents excessive parking demands during hours most likely to cause parking conflicts. Customers often patronize other businesses in the area after dropping off their children for classes. This is compatible with the retail intent of the district of generating foot traffic in the business district and will encourage people to visit other Village businesses.

C. The Action will not tend to depreciate the value of adjacent property because the business is located next to the Town Hall, and the proposed hours of operation of the business will generally be times when the Town Hall is closed. The operation of the business will not negatively impact adjacent properties as stated in B and will bring additional customers to other Village businesses.

D. The action will not create a hazard to health, safety, or general welfare because the applicant is not modifying the property and is using the property as is. Customers can either park in the street and walk in the front door, or park in the rear parking lot and enter in the rear of the building. The hours of operation are reasonable, and the business will not create a nuisance in the surrounding area.

E. The Action will not be detrimental to the flow of traffic in the vicinity because the business will stagger the class times and will have very little effect on the traffic flow in the area.

F. The Action will not alter the essential character of the neighborhood nor be detrimental to the residents thereof because there will not be excessive noise, hours of operation are reasonable to not adversely impact nearby residential properties, and the class hours are staggered to allow for orderly transitions between classes.

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

1. No more than 25 people can attend any classes, activities or events pursuant to §210-26.A.23.
2. Hours of operation for classes, events and activities are limited as follows:
  - a. Weekdays 4PM – 9PM, no special restrictions.
  - b. Weekdays 8AM – 4PM, restricted to 2 classes, activities, or events per day
  - c. Weekends 7AM-10PM, no special restrictions.
3. Classes, events and activities shall be at least 15 minutes apart to allow for orderly exits and arrivals.

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

Justin Vlietstra	Yes
Susan Lhota	Yes
Renee Stetzer	Yes
Eli Bannister	Absent
JoAnne Shannon	Yes

**Dated: November 19, 2018**

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

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**Michael Newcomb, 47 State Street ~ Use Variance**

**Present:** Michael Newcomb, Homeowner

**The legal notice was published in the Brighton-Pittsford Post on November 1, 2018:** *“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 November 19, 2018 at 7:00 pm, to consider an application made by Michael Newcomb, owner of property located at 47 State Street, for a use variance, pursuant to NY Village Law 7-712-B, to use the property as a 2-family home in an R-3 district where section 210-14 of the Zoning Law does not permit this use.”*

**Discussion:** The applicant stated that he is requesting a Use Variance in order to convert the residence at 47 State Street from a single-family home to a two-family residence. He explained that the house is large, 5 bedrooms and ~2100 square feet, is located on a busy street, and has no garage. It is difficult to rent because the size appeals to a family, but the location does not. He also stated that he attempted to sell the house, but was not able to sell it. He pointed out that a number of the houses in the vicinity of this house are two-family homes, and across the street is commercial property. He stated that there are no plans to alter the exterior of the house, other than making improvements to the existing façade of the house.

Chairperson Vlietstra explained that use variances trigger an environmental review. The applicant has been informed of this and given a Full Environmental Assessment form to fill out. Since he is not proposing any changes to the exterior of the building, most of the questions do not apply to this situation. Board members suggested that he fill out the form with the information that he knows the answers to and indicate that the other answers are not applicable to his application.

Ms. Zoghlin explained that the Board's authority to make decisions about use variances comes from New York State Village Law, which sets forth the criteria that the Board is required to use in determining whether or not to grant the use variance. The law puts a high burden on people who are seeking use variances, because the applicant is essentially asking a municipal board to rezone property. One alternative is that if the problem is widespread in this neighborhood, the applicant could request that the Village Board rezone the property.

There are four criteria that the applicant needs to address:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

The board of appeals, in granting use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time, preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

Ms. Zoghlin explained that the applicant will need to provide financial and other documentation in order to prove that he cannot realize a reasonable return on the property as it is currently zoned. The courts have defined what documentation is needed for 'dollars and cents' proof of hardship.

A document summarizing court opinions on 'dollars and cents' proof of hardship was shared with the Board and applicant.

Member Vlietstra explained to the applicant that he will need to provide this financial information and the filled out Full Environmental Assessment form at the next meeting in order for the board to act on this application.

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

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

No audience members had comments for the Board.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Stetzer, to leave the public hearing until the next board meeting to be held on December 10<sup>th</sup>.

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

**Liaison Report:**

- Trustee Keating updated the Board on the status of the Trustees' Code Review.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Stetzer, to adjourn the meeting at 9:00 pm.

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