

Village of Pittsford E-News

WESTPORT CROSSING PROJECT UPDATE (75 MONROE AVENUE)



A view of the Monoco asphalt operations in 1984.

In December of 2020, Supreme Court Justice John J. Ark issued two major rulings in favor of Village of Pittsford. By upholding the decisions of both the Village Planning Board and Historic Preservation Board to deny project approval, Judge Ark has paved the way for the Westport Crossing project to move forward. In the past, the project developer refused to negotiate in good faith to resolve material defects in their project proposals. The developer also embarked on a campaign of litigation to circumvent basic Village Code requirements, permitting issues, and New York State environmental law.

The developer, Pittsford Canalside Properties (PCP) now has the opportunity to comply with the Village Board Special Permit – which was also upheld – and to provide the community with the project they had originally promised.

PROJECT TIMELINE

Late 1990s - The Town and Village of Pittsford sue the Monoco Oil Company to stop the toxic emissions from the asphalt facility at 75 Monroe Avenue. After an investigation revealed the company illegally shut off emissions control equipment and dumped waste on the property, Monoco Oil files for bankruptcy and the property is auctioned.

2008 - The Village annexes the property and rezones from industrial commercial to residential to reduce traffic generation from future development and to make better use of the waterfront location.

2012 - The Village Board grants Pittsford Canalside Properties (PCP) a special permit to develop a 167-unit apartment complex and a waterfront restaurant at 75 Monroe Avenue.

2013 - PCP submits a project design to the Village Planning Board that significantly differs from the design authorized by the Special Permit issued by the Village Board. In accordance with New York State SEQRLaw, the Village Board identifies fourteen major changes,

including larger buildings, reduced landscaping, more pavement, and determines that a new environmental review is required.

2014 - After the Planning Board grants final Site Plan Approval, the Village Historic Preservation Board denies a Certificate of Appropriateness for the project on the basis that the bulk, mass and scale of the proposed development is incompatible with the historic context of the village and the Erie Canal, both of which are listed in the National Register of Historic Places.

2015 - The Zoning Board of Appeals upholds the Historic Preservation Board's denial of Certificate of Appropriateness for the project.

2018 - The Planning Board rehears the site plan application (as directed by the Court) because the applicant failed to submit a Local Waterfront Revitalization Program (LWRP) Consistency Application with the original site plan submission. Under New York State and Village law, a LWRP consistency review must be conducted before site plan approval is granted. The Planning Board determined that the proposed project was not consistent with the Village's LWRP and therefore also denied site plan approval.

2019 - The applicant requests the Planning Board rehear the LWRP Consistency Review. The Planning Board does so, and again denies it.

LITIGATION

The project review process has been significantly delayed due to litigation brought against each of the three independent Village regulatory boards. The Friends of Pittsford Village has filed two lawsuits challenging the 2012 Special Permit granted by the Board of Trustees and the 2014 Site Plan Approval granted by the Village Planning Board. The developer, Pittsford Canalside Properties, has filed numerous lawsuits challenging fundamental governmental jurisdiction and a variety of procedural issues. The Village has initiated none of the Westport Crossing project litigation. However, the Village Board has a legal responsibility under New York State Law to respond to all lawsuits filed against the Village, including those filed against the two other independent Village boards. Members of the Village Board are legally prohibited from interfering in the decision-making process of the other Village Boards.

Since the receipt of the original application, the various boards of the Village of Pittsford have insisted the Westport Crossing Project comply with Code requirements, fit within the established historic character of the community, and enhance the unique canal-side location.

THE RECENT COURT DECISIONS

In the decisions that were issued at the end of December, 2020, Justice Ark upheld the Village's actions, dismissing two major lawsuits brought by the developer, PCP.

The Court upheld the Village Historic Preservation Board's (formerly the Architectural Preservation and Review Board) 2014 denial of a Certificate of Appropriateness and the Village Planning and Zoning Board's 2018 denial of the project's consistency with the Local Waterfront Revitalization program. In each case, the Boards had previously issued determinations that the Project was not consistent with the Village's criteria for approval. The Developer sued to challenge those determinations. The Court ruled that both Boards had a rational basis for their determinations, which were neither arbitrary nor capricious and will not be overturned. Specifically, the Court rejected the Developer's argument that "zoning approval somehow limits historic and architectural review," and noted the developer had "offered no arguments regarding the reasonableness (or alleged lack thereof) of the APRB's determination." Because both approvals were required for the Westport Crossing Project, these decisions strike a major blow to the Developer's chances of proceeding with the Project as currently proposed.

THE PATH FORWARD

The three Village boards remain committed, as they have been throughout this process, to bringing a quality project to the site. Members of the three boards have spent hundreds of hours in numerous negotiations and have clearly conveyed to PCP the type of project that would meet Village Code requirements and the design criteria that would ensure the project would fit harmoniously on the unique canal-side property at 75 Monroe Avenue. In the time since the decisions were issued, the three boards again have worked to provide PCP with an outline of acceptable parameters. In the past, PCP has refused to provide plans in accordance with the Village's criteria. They have now indicated their willingness to do so and the ball is again in their court.

The three Village boards will continue to stand for the principles upon which the community has insisted, and what other developers have routinely followed. Adherence to these principals over many years has created the historic, livable, walkable, and vibrant village we enjoy today. The recent Village wide survey also indicated that this remains the preference of a significant majority of village residents. The path has finally been cleared to build a development that fits harmoniously with its unique canal setting and provides additional housing options in our community.



Current view of the 75 Monroe property along the Erie Canal.

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