

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting – June 19, 2017 at 7:00 PM

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Jeffrey Bove
Susan Lhota
Heather Erwin
Building Insp: Paul Alguire

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

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

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

Conflict of Interest Disclosure:

Member Shannon disclosed that she is a member of the Board of Directors of Historic Pittsford, but stated that this would not affect any decisions regarding the 44 Sutherland Street application.

Robert Brown, 69 North Main Street, Area Variance

Present: Robert Brown, homeowner

Discussion: The applicant is proposing to install a small, stand-alone generator in a side yard of his house located at 69 North Main Street. The installation of the generator requires an area variance pursuant to Village Code §210-12.H. The applicant stated that the generator will be located 18” from the house, and will be screened from view by large trees. The Building Inspector stated that the proposed location for the generator meets Fire Code regulations. Chairperson Vlietstra stated he is unsure if this code applies to a generator since that code section clearly intends to apply to sheds and similar accessory storage structures. The Board discussed whether side setbacks apply in this situation.

Ms. Zoghlin reviewed the code section 210-12.H, which states that “No such accessory building shall be located in the front or side yard of the lot on which such accessory building is located. There shall be a distance of not less than three feet between such accessory building in the rear and side lot line and not less than 10 feet between such accessory building and the rear line of the principal building on the lot.” She additionally reviewed the definition of a structure, the definition of building, and the definition of an accessory building. She stated that anything “which requires permanent location on the ground” is a structure, but a building is “any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.” She stated that “accessory building” is defined more broadly than building is. It was noted that there is a discrepancy in the Code in this matter. Ms. Zoghlin explained that if there is any ambiguity in the Zoning Code, the ambiguity must be resolved in favor of the applicant.

The Board discussed these definitions and recommendations from Ms. Zoghlin and agreed that a generator does not have a roof and is not intended to shelter persons or animals, so it does not meet the definition of a building. It does have a permanent location on the ground so it meets the definition of a structure. The side setback restrictions in Village Code §210-12.H only apply to buildings, so an area variance would not be required.

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

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

➤ John Field, 50 Sutherland Street, expressed support for this application.

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

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

Chairperson Vlietstra stated that he is of the opinion that the Board should interpret Code to indicate that the generator is a structure, but not a building, and is not subject to the setback requirements for buildings.

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to approve Resolution 2017-10 interpreting the generator as a structure, and not a building, and not subject to the side setback requirements for buildings.

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

**VILLAGE OF PITTSFORD
ZONING BOARD OF APPEALS**

RESOLUTION 2017-10 Interpretation

Project: Generator Installation Date: 06-19-2017

Applicant Name: Robert Brown, Mary Ann Brown
Address: 69 North Main St
Pittsford, NY 14534

Action: Install a generator in the side setback of a single-family home

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the “Board”) duly convened on June 19, 2017, at 7 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 Bove, to wit:

WHEREAS, The above named applicant for an Area Variance of Sections **210-12.H** of the Zoning Law of the Village of Pittsford to permit installation of a generator in a side yard of a single family home in the R-2 Zoning district and;

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 Board's review is for area variance for a single family home and is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(13).

2. Monroe County Planning Review:

The Board's review is for an area variance 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, after review, the Board makes the following findings:

A. Village code 210-12.H states:

“In all residential districts there shall be permitted no more than one accessory residential storage building, exclusive of a private garage, per residential lot, the area of which, together with any additions thereto, shall not exceed 120 square feet. The height of such accessory building shall not exceed 12 feet as measured from the average grade at the front of said accessory building to the highest point of such accessory building. No such accessory building shall be located in the front or side yard of the lot on which such accessory building is located. There shall be a distance of not less than three feet between such accessory building in the rear and side lot line and not less than 10 feet between such accessory building and the rear line of the principal building on the lot.”

B. Village code 210-2 defines “building” as:

“Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.”

C. Village code 210-2 defines “structure” as:

“Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.”

D. The proposed generator has a permanent location on the ground and meets the definition of a structure but it does not meet the definition of a building.

NOW THEREFORE IT IS RESOLVED by the Zoning Board of Appeals of the Village of Pittsford that the zoning code does not prohibit installation of a generator in a side yard and no variance is required.

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

Justin Vlietstra - Yes

Susan Lhota - Yes

Jeffrey Bove - Yes

Heather Erwin - Yes

JoAnne Shannon - Yes

Dated: June 19, 2017

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

Chairperson,
Zoning Board of Appeals

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**Richard Palumbo, 44 Rand Place, Appeal of Building Inspector's determination**

**Present:** Rich Palumbo, homeowner

**Discussion:** The applicant stated that he had purchased the house at 44 Rand Place in February of 2017. He further stated that he had reviewed the Village Code and concluded that the house, other than the western side, was not subject to APRB review. The applicant appeared before the APRB to propose a new window on the western façade of the house, and was granted approval for the window. At the APRB meeting, the Building Inspector determined that the house was located on a public street and was subject to Board review. Mr. Palumbo stated that he is asserting that the APRB does not have jurisdiction over the south, north, and east sides of the house because it is located on a private drive, which is not open to the general public. He explained that the drive is owned by Len Parker, and there are only three other houses on this drive who use the drive pursuant to an easement, which states that only four property owners have a right to use the property. The residents contribute toward the maintenance of the private drive.

Ms. Zoghlin stated that the test for determining whether a road is public is not ownership, but access. If the public has a general right of passage in motor vehicles, it is a public road. The public appears to have the ability to access the road without seeking permission from anyone. Mr. Palumbo stated that the road is not used by municipal vehicles or school buses, and it is posted as a private drive for use only by residents and their guests. Ms. Zoghlin stated that the issue is not who is responsible to maintain the drive, the issue is who has access to the drive. She asked whether there has ever been a situation where the police have been called because of someone trespassing on the drive. Mr. Palumbo said that the police have not been called for trespassing. She also pointed out that there have been other applications to the APRB from residents of this drive, and the APRB has consistently taken the position that the property is within its jurisdiction.

Chairperson Vlietstra asked the applicant whether people going from door-to-door can be arrested for trespassing on the property. Mr. Palumbo stated that they could be arrested for trespassing if they don't have permission to be on the property. Ms. Zoghlin stated that the Board needs more historical information as to whether the public has a right to access the private drive. Chairperson Vlietstra noted that multiple houses need to share the private drive to access their driveways and homes. He further stated that the difference here is that there are multiple houses using the private drive, as opposed to one house's private driveway. Privately maintained drives are common in new developments but there has to be some threshold that makes it a street and not a driveway. He also pointed out that the front of the houses on the street face the drive, which is different from the usual driveway. He noted that the mailboxes are at the end of the private drive, and he asked how packages get delivered. Mr. Palumbo stated that he didn't know. Ms. Zoghlin stated that the issue is whether the public has a right to use this drive.

Chairperson Vlietstra stated that Village Code 1-15(C) defines "public place" as "any park, cemetery, schoolyard or open space adjacent thereto and all streets and parking fields"; and a "street" as "includes, but shall not be limited to, streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the village." A dictionary.com definition of alley is "a passage, as through a continuous row of houses, permitting access from the street to backyards, garages, etc." and the definition of lane is "narrow way or passage between hedges, fences, walls, or houses." He stated that this private drive seems to meet the definition of an alley or lane so it should be considered a street per the Village definition of street.

Mr. Vlietstra asked Mr. Palumbo whether he is aware of any court cases dealing with public vehicle access on this type of road, and Mr. Palumbo stated that he did not have any court cases to cite.

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

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

- **Mike Reynolds, 34 Church Street**, pointed out that the police have access to the street.
- **Len Parker, 46 Rand Place**, made a statement:

I am Len Parker and I live at 46 Rand Place. I also want to note that we have with us tonight, neighbors from our immediate surrounding properties who collectively join me in welcoming our new neighbors-to-be, Anne and Richard Palumbo, who came before you with intended upgrades to their newly acquired property at 44 Rand Place. We support the vision that they've mentioned to us thus far and we wish them well in getting through the approval process. But more procedurally salient, I want to make it clear that I am appearing only as a volunteer and that I am not directly a subject of any matter before this Appeals body tonight, and therefore I do not believe a determination, binding upon me, can occur tonight or at any other point in time without first serving me with proper notice that I can share with my attorneys, if/when the Village contemplates reclassifying my private property as being "open to the general public." I assume the Village agrees to honor my right to be heard, to follow due process, to have legal counsel present and to allow for appropriate preparation time, inclusive of providing written statutory basis if ever the Village discloses its motive and reasons for wanting to reclassify my driveway.

My property, inclusive of the driveway, has been PRIVATE for at least 67 years and with singular authority throughout a continuum of historical owners, we have, and still possess, exclusive power to grant or withhold permission to access the private property known as 46 Rand Place. I want to assume everyone on that side of this room, as well as this, seeks to be reasonable, fair, consistent, and understanding in resolving this issue that I truly believe should have been demoted as a non-issue in advance of tonight. This matter can easily be remedied without further going down a procedural path that is questionably improper, i.e., I am the owner of the driveway in question, and changing the classification of my property is not something to be pursued as a sidebar of Richard Palumbo's Plan Review process for his remodeling. Therefore, I request that the Record reflect that there has been no supporting evidence and rationale provided to me about changing my private property, and therefore, all portions of 46 Rand Place remain private and not open to the general public. In fact, my sign says: "Private Drive, Residents and Guests Only, No Trespassing."

Does your driveway have a name? That's something important that we have in common, neither does mine. That is a key distinction between a private-use driveway and public pavement. By contrast, and an invalidate comparison, Stonegate Lane is called "Stonegate" and it even has a village street sign that says so. Gaskin Place is called "Gaskin Plac" and it, too, has a village street sign that says so. I have no name, no street sign. The only sign says "Private Drive, Residents and Guests Only, No Trespassing." So how can you possibly expect to prevail in convincing anyone that my driveway is like these other situations? Please be cautious and not intermingle two different issues. One, being about the APRB having jurisdiction in cases where general public access is a prevailing condition. I agree the APRB enjoys the authority, as documented in Village Code, to exercise jurisdiction in that case. Two, is a different issue as to whether my property meets any reasonable standard of General Public access, and to this I firmly state the answer is "no." I believe that I am the only authority able to grant or withhold permission to access my land, so if I haven't granted access to the general public, then the general public doesn't have it, period. Does

anyone here feel that he or she has higher authority which supersedes my authority to determine permissible access?

In sum, I assume you feel that you are the only authority that rightfully can grant access to your driveway, and if you haven't granted permission to the general public, then the general public does not have it. I feel the same way. And again, there is no valid comparison with Stonegate; the closet comparison is with my driveway being considered the same way you consider your driveway. Thank you for letting me be heard.

Ms. Zoghlin asked Mr. Parker when he bought the property, and he stated that he purchased it in 2007. She also asked when the Private Drive sign was installed, and Mr. Parker stated that the sign was installed two months ago, but explained that there have been other signs in the past. She also asked if Mr. Parker has ever asked anyone to leave the premises, and he stated that he has asked people to leave on two occasions. In one instance, he called the police because people were trespassing on his property. Chairperson Vlietstra asked if anyone had canvassed on the street for political parties. Mr. Parker stated that occasionally, these people had stopped by the house.

Ms. Zoghlin asked Mr. Parker to compare and contrast his street with Stonegate Lane. He stated that Stonegate Lane is owned by multiple property owners. The pavement touches eleven properties. There is a street sign and there are two lanes in the road so vehicles can pass each other. Stonegate Lane is serviced by municipal vehicles, while the private drive is not. The private drive is narrow and vehicles cannot pass; it does not have a name; it is entirely on a single private property. Stonegate Lane also abuts the Pittsford Recreation building, but the Rand Place road does not abut any other properties. Mr. Parker stated that the property values of the houses on the drive will be affected if the street is reclassified as a public street. Ms. Zoghlin explained that the Zoning Board does not have the legal authority to make broad proclamations as to whether the property is a public street, they can only determine if the road is a public street for purposes of APRB review over exterior modifications. She pointed out that the APRB has reviewed and made determinations about other properties on the private drive in the past.

Chairperson Vlietstra explained that the Board serves as an Appellate Board and hears appeals over determinations made by the Building Inspector; the Board hears these appeals so they do not have to go to court. He stated that the specific question before the Board is whether the APRB has jurisdiction over the property. He stated that the Board's interest is finding the correct answer to this question. Mr. Parker stated that the jurisdiction of the APRB is because of the phrase "general public access." The situation is not general, but specific, in that there are specific contractual agreements between the owner and other property owners. The contracts run with the land as part of the deeds.

Village Code §121-60(A)(1) states, in part, "The APRB shall have the power to pass upon such activity before a certificate of approval is granted, provided that the APRB shall pass only on the exterior features of a building or structure as are visible from the public street, public walkway, park or other public property, private property open to the general public or waterway."

Mr. Palumbo stated that the language of the Code is clear: it is not a public place; it's private property. If the private property is not open to everyone, then the APRB has no jurisdiction over it. Chairperson Vlietstra explained that Board members are attempting to interpret the Code to the best of their abilities. He suggested that Board members needed more time to research the legalities of the situation. Member Erwin stated that it would be beneficial to have more information as to how this situation differs from the situation of Stonegate Lane. She expressed her opinion that the fact that the street does not get municipal service is important for the Board to consider.

Mr. Palumbo stated that he requested information from the Village about the history of Stonegate Lane, but received no response regarding this issue. He requested that the Board not adjourn this to a later time. Mr. Parker stated that, as the owner of the drive, he has exclusive right to grant or deny access to the road.

Ms. Zoghlin suggested that if the factual basis upon which the APRB found the two streets to be similar is incorrect, this could affect the decision in this matter. Board members discussed the possibility of holding a special meeting after further researching the history of the situation.

Member Erwin suggested that the Board vote on this matter at this time. Member Vlietstra commented that he would prefer that the board have all the facts prior to voting. Mr. Alguire, the Building Inspector, stated that since the time that he made his determination that the drive is a public street, he has learned new information that would change the original determination, and he suggested that the Board reverse his determination. Ms. Zoghlin suggested that the Board continue the public hearing until such time as the Building Inspector makes a formal determination to withdraw his prior determination. Mr. Alguire stated that he is making a formal determination to reverse his determination that the drive is a public street. Member Vlietstra stated that in light of Mr. Alguire's statement, the application will be rendered moot.

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Richard Palumbo, 44 Rand Place, Area Variance

Present: Rich Palumbo, homeowner

Discussion: The applicant stated that he had purchased the house at 44 Rand Place in February of 2017. He is in need of an area variance to construct a vestibule in front of his front door. The proposal is for construction of a vestibule on the south side of the house. The garage is 22 feet from the property line but there is a 30ft front setback required. The proposed vestibule is not visible from Rand Place. The vestibule is small and does not alter the existing setback of the garage. There is an existing open porch, and the vestibule will provide a covered entrance from the garage to the house.

Board members reviewed the area variance criteria as it applies to this application, and came to the following consensus:

The requested variance will not create an undesirable change in the character of the neighborhood or detriment to nearby properties in that it is a relatively small change to the house that is not prominently visible. The house is 1580 sq. ft. and the vestibule is 45 sq. ft. The vestibule is not visible from Rand Place.

The benefits sought by the applicant cannot be achieved by some other feasible method because a structure is needed to accomplish the desired benefit of having a covered walkway between the garage and house, and any structure will need a variance due to the existing nonconforming setback.

The requested variance is not substantial in that the vestibule is small and does not change the existing nonconforming setback.

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 a relatively small change to the house that is not prominently visible. The house is 1580 sq. ft. and the vestibule is 45 sq. ft. The vestibule is not visible from Rand Place.

The alleged difficulty is self-created because the desire for the covered walkway is self-created, but that does not preclude granting an area variance.

The variance is the minimum necessary to provide relief because the vestibule is small and does not alter the existing nonconforming setback of the garage.

Motion: Chairperson Vlietstra made a motion, seconded by Member Bove, to adopt Resolution 2017-9 for relief from Village Code §210-12.B to permit construction of a vestibule on a property that does not comply with the R-2 Front Setback of 30 ft.

RESOLUTION 2017-9 DECISION ON AREA VARIANCE

Project Vestibule Date: 06-19-2017

Applicant Name: Richard Palumbo, Ann Palumbo
Address: 44 Rand Pl
Pittsford, NY 14534

Action: Install a vestibule on the front of the house at 44 Rand Pl

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the “Board”) duly convened on June 19, 2017, at 7 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 Bove, to wit:

WHEREAS, The above named applicant for an Area Variance of Sections **210-12.B** of the Zoning Law of the Village of Pittsford to permit construction of a vestibule on a property that does not comply with the R-2 Front Setback of 30ft, and;

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 Board’s review is for area variance for a single family home and is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(13).

2. Monroe County Planning Review:

3. The Board’s review is for an area variance 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.

4. 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 a relatively small change to the house that is not prominently visible. The house is ~1580 sqft and the vestibule is 45sqft. The Vestibule is not visible from Rand Place;

B. The benefits sought by the applicant **can not** be achieved by some other feasible method because:

A structure is needed to accomplish the desired benefit of having a covered walkway between the garage and house and any structure will need a variance due to the existing

Nonconforming setback;

C. The requested variance **is not** substantial in that:

The structure is small and does not change the existing nonconforming setback;

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 a relatively small change to the house that is not prominently visible. The house is

~1580 sqft and the vestibule is 45sqft. The Vestibule is not visible from Rand Pl;

E. The alleged difficulty **is** self-created because:

The desire for the covered walkway is self-created but that does not preclude granting an

area variance;

F. The Variance **is** the minimum necessary to provide relief because:

The vestibule is small and does not alter the existing nonconforming setback of the

garage;

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:

Justin Vlietstra - Yes

Susan Lhota - Yes

Jeffrey Bove - Yes

Heather Erwin - Yes

JoAnne Shannon - Yes

Dated: June 19, 2017

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

Chairperson,

Zoning Board of Appeals

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## **John & Deb Field, 50 Sutherland Street, Site Plan**

**Present:** John Field, homeowner; Jon Schick, Architect

**Discussion:** Mr. Schick stated that the applicants are proposing to construct a 2½ car garage in the rear yard. One bay of the existing attached garage will be converted to living space, and one bay will remain a garage. There is a covered walkway that connects the garage with the house, and there is a small side porch facing the back yard. Member Vlietstra commented that the Building Inspector will need to review the Code to determine if two attached garages are permitted. Mr Schick stated the existing circular driveway will be removed, and the new garage will be located in the area where the driveway currently is, which will result in a reduction in the amount of existing asphalt in that area. All materials will match the existing house. The existing house has cedar shake siding and the new siding will be the same exposure as existing. The window styles will match the style of the windows on the existing house. The applicant is installing drywells for purposes of drainage near the property line and impervious surfaces. The applicant submitted cutsheets for the light fixtures and indicated the locations for the installation of the light fixtures. The light fixtures are code compliant. Mr Vlietstra stated that it looks like the distance from light fixtures to neighboring properties is sufficiently large that light trespass will not be a problem. The light fixtures and their locations appear to him to be appropriate for residential use.

Mr. Vlietstra asked the building inspector if he has reviewed drainage plans and asked whether he has any concerns about drainage. The Building Inspector, Paul Alguire, responded that he did review the drainage plans and visited the site and found the drainage plans to be adequate.

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

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

**Ken Morrow, Sutherland Street:** expressed his support for the project.

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

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

Ms. Zoghlin stated that Board members need to ascertain whether this is considered a Type I or Type II action under SEQR and suggested that the Board review this project against historical preservation guidelines like it has for other properties. Member Vlietstra reviewed the list of guidelines from the Department of Interior for rehabilitation of historic structures. He stated that there will be no change in use, it will remain a residential use. There are no substantial changes to the materials or features of the house, and the front façade will remain substantially unchanged, with some relatively small changes to windows. The historic character of the property will be retained and preserved. The new construction is maintaining the character of the original structure. The Board reviewed potential impacts of the action and finds that the proposed action will not have any potentially significant adverse environmental impacts, and therefore, is a Type II action under SEQR § 17.5(c)(9).

Mr. Vlietstra asked the Building Inspector whether he felt the application presented is adequate for the board to use to make a determination. Mr. Alguire responded that he believes the application is adequate and he recommends the Board waive any outstanding application requirements that have not been met.

Mr. Vlietstra stated that the existing site appears to be adequately landscaped and the plans show that the applicant intends to keep mature trees on the site. Mr. Vlietstra asked Mr. Schick if he is familiar with techniques needed to protect existing trees from damage during construction activities. Mr. Schick stated he is familiar with protecting trees so they are not accidentally killed.

The Board discussed the concern of having two attached garages and whether they could vote on the matter with that unresolved. Ms. Zoghlin recommended making it a condition of approval. If the Building

Inspector determines that two attached garages are not permitted then the applicant shall remove the covered walkway or apply for and be granted an area variance.

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Bove, to grant Preliminary Site Plan Approval and Final Site Plan Approval of the site plan dated 5-12-2017 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. If the Building Inspector determines that two attached garages are not permitted then the covered walkway to the garage shall be removed or the applicant shall apply for and be granted an area variance. The Building Inspector shall make this determination before issuing a Building Permit for the proposed action.
4. Exterior light fixtures shall be code compliant and shall have a color of 2700K – 3000K (warm white).

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

## VILLAGE OF PITTSFORD PLANNING BOARD

### RESOLUTION 2017-8 DECISION ON SITE PLAN

**Project**50 Sutherland Addition and Garage**Date:** 06-19-2017

**Applicant Name:** Jon Schick  
**Address:** 248 East Ave  
Rochester, NY

**Action:** Construction of an 800 sq.ft addition and 2.5 car garage to  
A single family home.

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the “Board”) duly convened on June 19, 2017, at 7 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 Bove, to wit:

**WHEREAS,** The Village of Pittsford Planning Board (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:

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

1. State Environmental Quality Review (SEQR):

- a. The proposed action is a Type II action pursuant to 6 NYCRR 617.5(c).9. In making this classification, the Board recognizes that the single family residence is a contributing structure in the Village of Pittsford Historic District. For that reason, the Board has also considered the criteria contained in 6 NYCRR 617.7(c) to determine whether there may be the potential for a significant adverse impact on the environment based on those criteria. For the reasons set forth below, this Board finds that the Proposed Action will not have any potentially significant adverse environmental impacts:
  - i. There will be a small amount of change to the front of the house. The majority of the front façade and existing materials visible from the street will be kept intact.
  - ii. Changes to the rear of the house and garage use materials that match the materials on the front: cedar shakes, similar window and trim details.
  - iii. The architectural style of the addition is designed to closely match the front of the house so it will be compatible with the existing home and be compatible with community character.
  - iv. The proposed garage uses materials and design compatible with the house and will not detract from the feel of the neighborhood.
  - v. The proposed addition is in the rear of the house and has limited visibility from the street and sidewalk.
  - vi. Changes to drainage, landscaping, and lighting are modest.
  - vii. Guidelines from the Department of Interior's standards for historic rehabilitation are generally complied with. The Architectural Preservation and Review Board shall ultimately make this determination.

The Board reviewed potential impacts of the Action and finds that the proposed action will not have any potentially significant adverse environmental impacts.

2. Monroe County Planning Review:

- a. The application **was** referred to Monroe County Planning for review pursuant to General Municipal Law section 239-m and on May 12, 2017 Monroe County Planning responded to the 239-m referral with no recommendations.

3. Waterfront Consistency Review:

- a. The proposed action is a Type II action 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 Village Building Inspector explained the application and the submitted information to the Board and recommended waiving application requirements because the provided site plan and architectural drawings provide adequate information for the board to make a determination on this application.
2. The Building Inspector has determined that the action does not create any Zoning Violations.

3. Drainage is reasonably addressed by the applicant because:  
The Building inspector visited the site and reviewed drainage plans and stated that he believes the drainage plans are acceptable. The applicant has included drywells to address storm water near property lines and impervious surfaces to prevent runoff onto neighboring properties.
4. Light fixtures will not introduce light trespass onto adjacent properties because:  
The light fixtures are code compliant and dark sky compliant. The intensity of approximately 1000 lumens per light fixture is appropriate for residential lighting. The distance from light fixtures to neighboring properties is sufficiently large that light trespass will not be a problem.
5. The site is suitably landscaped because:  
The site is already adequately landscaped and will continue to be adequately landscaped. The proposed Action will not impact landscaping at the property.

**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 5-12-2017 with the following conditions:

5. 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.
6. 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.
7. If the Building Inspector determines that two attached garages are not permitted then the covered walkway to the garage shall be removed or the applicant shall apply for and be granted an area variance. The Building Inspector shall make this determination before issuing a Building Permit for the proposed action.
8. Exterior light fixtures shall be code compliant and shall have a color of 2700K – 3000K (warm white).

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

Justin Vlietstra - Yes  
Susan Lhota - Yes  
Jeffrey Bove - Yes  
Heather Erwin - Yes  
JoAnne Shannon - Yes

**Dated: June 19, 2017**

By order of the Planning Board of the Village of Pittsford

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Chairperson,  
Planning Board

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Chase Bank, Site Plan Review

Chairperson Vlietstra noted that there was no representative from Chase Bank present.

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, hold the public hearing for Chase Bank open to be continued at the July 17, 2017 PZBA meeting.

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

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### **David and Tina Mattia, 44 Sutherland Street, Site Plan Review**

**Present:** David & Tina Mattia, homeowners; Dan O'Brien, Woods, Oviatt, & Gilman

**Discussion:** Chairperson Vlietstra stated that this is a continuation of site plan review for demolition of an existing house and construction of a new house at 44 Sutherland Street. Ms. Zoghlin noted that the Board closed the public hearing at the last meeting but recommended that the board rescind closing the public hearing and only close the portion of the public hearing pertaining to the public comment period for the determination of environmental significance.

**Motion:** Chairperson Vlietstra made a motion, seconded by member Bove, to rescind the motion from the May 22<sup>nd</sup> Planning Board meeting to close the public hearing for 44 Sutherland Street.

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

**Motion:** Chairperson Vlietstra made a motion, seconded by member Lhota, to close the public comment period with respect to the determination of environmental significance under SEQR, but the hearing for site plan review and SEQR will remain open.

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

**Motion:** Chairperson Vlietstra made a motion, seconded by member Bove, approving a resolution declaring the Planning Board lead agency under SEQR for 44 Sutherland Street.

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

**Discussion:** Member Vlietstra stated that at the May 8<sup>th</sup> Planning Board meeting, the Board reviewed the DEC Guidelines for evaluating environmental impacts of the project, and the Board indicated that the applicants would be given an opportunity to address these deliberations at the subsequent meeting. At the May 22<sup>nd</sup> meeting, the applicants submitted a substantial amount of new documentation for the Board to review regarding assessing potential environmental impacts of the project. He summarized claims made by the applicant included the following:

- One of the concerns raised by the applicants is that they are being treated differently than other applicants who have come before the Board, such as 36 Sutherland Street and 25 Rand Place.
- They submitted two articles from Eleanor Gorski, 12 color photographs, and sections 2 and 3 of the Village of Pittsford's Building Design Standards and stated the new construction is appropriate in a historic district.

- The applicants also suggested that the Board inappropriately used the designated scenic viewshed criteria in evaluating the environmental impact, because the property has not been designated as a scenic viewshed.
- Mr. Schick had suggested that the demolition at the Pittsford Dairy received less scrutiny than the 44 Sutherland Street demolition.
- There was some discussion regarding whether the Board's consideration of the color of the new house was appropriate.
- The applicants also argued that the APRB's decision to approve demolition impacted the Planning Board's decision-making authority under SEQR.

Chairperson Vlietstra indicated to the applicants that Board members had carefully and thoroughly reviewed this new documentation. He also stated that he had reviewed the files and findings for the Pittsford Dairy, 36 Sutherland Street, and 25 Rand Place. He also challenged the applicants' assertion that the Planning Board should not consider demolition, since the APRB had already voted to approve demolition. He explained that under SEQR, the Board is charged with reviewing the action in its entirety. He asked Ms. Zoghlin to address the Board's obligations under SEQRA and whether the APRB vote changes any of these obligations.

Ms. Zoghlin stated that the Planning Board has a statutory obligation to comply with SEQR before it takes any action on the site plan application. The APRB's determination cannot prevent the Planning Board's making a determination under SEQR, because there was no coordinated review under SEQR. On October 5, 2015, the APRB declared the action a Type I action pursuant to SEQRA 6 NYCRR §617.4(b)(9), an unlisted action on a site proposed for nomination and adjacent to a State historic site. After classifying the action as a Type I, the APRB sent the PZBA a letter requesting that the APRB be named lead agency. On November 15, 2015, PZBA responded by letter requesting copies of the FEAF and application, the basis upon which the APRB believes it should be lead agency, and an extension of time to respond to the lead agency request. They received no response from the APRB. The APRB did not adopt a resolution declaring themselves lead agency nor did they file any papers with the DEC. After classifying the action as a Type I, on August 31, 2016, the APRB reclassified the application as a Type II action under SEQR 6 NYCRR § 617.5(c)(2), as a replacement-in-kind of a structure. The APRB did not indicate the reason that they changed the classification from a Type I to a Type II, and they did not communicate with the Planning Board in that regard. The Planning Board received no formal communication about the application, other than the original Type I letter, until the site plan application was submitted on January 19, 2017. The Planning Board has an obligation to review the project and determine whether any aspect of the entire action could reasonably be expected to result in the impairment of the character of important historical resources or existing community or neighborhood character. SEQR requires literal compliance with all of its terms. The Planning Board will determine whether there is the potential for at least one potentially significant adverse environmental impact.

Chairperson Vlietstra explained that the Board will decide that either there is the potential for at least one potentially significant adverse environmental impact or there is not. And neither decision will grant or deny the application for site plan review.

Ms. Zoghlin stated that in order for the Board to issue a negative declaration of environmental significance, the Board must find that the proposed application, both the demolition of the existing structure and the proposed new construction, will not have a potentially significant environmental impact. For the Board to issue a positive declaration, the Board must find that there is the potential for at least one potentially significant adverse environmental impact. If the Board issues a positive determination then the applicant will prepare a Draft Environmental Impact Statement, which evaluates the impacts and suggests ways to mitigate the environmental impacts to the maximum extent practicable. All of the involved agencies have the right to participate in the environmental review, including the APRB. The Planning Board is committed to involving the APRB in this process.

Chairperson Vlietstra stated that he wanted to further address some of the comments in the applicants' submitted documentation. He explained that in the Board's review of the environmental impacts, members referred to the DEC's Guidelines for evaluating impacts and many of these guidelines are very black and white with regard to this action. For example, the DEC Guidelines clearly state that demolition of an historic structure may have a moderate to large impact on the environment.

Mr. Vlietstra further stated he wanted to address Mr. Schick's comments questioning the Board's consideration of impacts on scenic viewsheds when the property has not been designated a scenic viewshed. He said the Board reviewed the DEC guidelines for evaluating impacts on Aesthetic Resources and these Guidelines use "scenic viewshed" and "aesthetic resources" interchangeably. He read an excerpt from the Guidelines:

"Officially designated scenic areas include scenic byways, scenic roads, scenic areas of statewide significance, scenic trails, and scenic rivers. Other designated areas may also include places or sites listed on the National or State Registers of Historic Places, State Parks, State Forest Preserve areas, State Game Refuges, National Natural Landmarks, and National Park Service Lands."

The DEC published an entire article titled "Assessing and Mitigating Visual Impacts" providing guidance on assessing impacts on aesthetic resources. This article enumerates aesthetic resources of concern. Item (1) on this list is "A property on or eligible for inclusion in the National or State Register of Historic Place." Analysis of impacts in this memorandum is not specific to any particular type of aesthetic resource and it clearly states that historic structures should be reviewed. Regarding the question "The proposed action may result in the obstruction, elimination, or significant screening of one or more officially designated scenic views," the DEC Guidelines clearly intend for consideration of more than just designated scenic viewsheds and it is appropriate to consider impacts on historic structures. The property is a historic structure, and its demolition will impact viewsheds and should be a concern. The 44 Sutherland Street project will result in the obstruction, elimination, or significant screening of one or more scenic views.

Mr. Schick's letter also suggests that the Planning Board's treatment of this application is inconsistent with the manner in which the Pittsford Dairy's application for demolition was treated. The PZBA granted the Pittsford Dairy approval to demolish the existing building and construct a new building without requiring SEQRA review. Mr. Vlietstra discussed some of the findings from that review and how they differ from this application for 44 Sutherland. Mr. Vlietstra explained that the Pittsford Dairy is zoned commercial and 44 Sutherland is residential. The proposed Dairy barn replicated architectural features of that era as can be seen by the appended pictures of the outbuildings at that time. The barn harmonizes with the existing Italianate architecture on site and the surrounding neighborhood. The proposed new construction of 44 Sutherland Street does not. The Dairy barn structure is similar to the 1892 Barn Complex. 44 Sutherland Street makes no attempt to blend its proposed contemporary residence into the neighborhood. The reason for the Dairy demolition was that the existing facilities were obsolete, too small in size, and did not conform to the then current New York State Department of Agricultural & Markets regulations, which required the boiler, milk processing equipment, and ice maker to be in separate locations. The review of the Dairy did not happen quickly; the review lasted for 22 months. There were substantial findings as to the reasons that demolition was approved.

The record in the Pittsford Dairy matter established that there were specific factors supporting the determination to demolish the structure:

1. The Dairy has lost its architectural integrity; only one of the four original exterior walls remains intact.
2. Low (6'4") headroom prevents adapting the building to comply with current codes.
3. Loss of the original building's floor system and walls and an inadequate structural system supporting the roof and floors would require the structure to be entirely rebuilt if it were rehabilitated for a new use.

4. The dairy's location adjacent to the main house limits its potential to house a new use. A commercial or residential use in this location would infringe on the continued use of the main house as a residence and would require parking which would compromise the setting of the house and its historic landscape. The Secretary of the Interior's Standards for Rehabilitation recommend retaining the original use of historic buildings where possible. Those standards have been adopted by the APRB.
5. The Dairy is located behind the main house so its removal will not significantly alter the view of the property from North Main Street.

The Pittsford Dairy analyzed and evaluated the pertinent historic resources. The house and the grounds were deemed to be the two most historically significant features. A lot of effort was made to preserve the grounds and the house. The circular drive was maintained, and another historic structure on the grounds was relocated to a new area on the site, rather than being demolished. In evaluating the alternatives, the applicant considered potential impacts to historic resources and ultimately selected the one that would have the least impact. The Italianate exterior of the main house and most of the surviving outbuildings reflect architecture of the third quarter of the 19<sup>th</sup> Century. "The proposed new Dairy has been carefully designed to harmonize with the farm's historic structures and incorporates numerous design elements that reflect building practices of the 1860-1875 period." Chairperson Vlietstra stated that a very careful analysis was done to evaluate the impact of the Dairy demolition on historic resources. It was not an arbitrary process. The Pittsford Dairy applicant submitted a lengthy historical resource analysis and inventory which answered all the questions that might normally be performed as part of SEQR. The PZBA issued a SEQR Negative Declaration.

As for the claim that the Board is treating this application differently than the site plans for 36 Sutherland Street and 25 Rand Place, Mr. Vlietstra stated that first of all, the fact that this application is for demolition, and the others were not, is a main difference. Also, the Board reviewed the Secretary of the Interior's Standards for treatment of historic properties; there are 10 standards for historic rehabilitation, and the other projects complied with the standards: Original historic portions of the house were preserved; original materials were not destroyed or damaged; the additions were in the rear or on the side of the house; and the prominent character of the houses was maintained. This is not the case for 44 Sutherland Street. Compatibility and impacts on historic resources are factors for review under SEQR.

Chairperson Vlietstra noted that the applicant has also stated that the Planning Board is not permitted to consider the fact that the proposed new house will be a light color, as opposed to a dark color like the existing house. He explained that the change in color from dark to light creates a focal point where one did not previously exist. The change from brick to clapboard is a substantial change. The Department of Interior Standards and Guidelines for historic rehabilitation specifically recommend against radically changing the type of paint or color.

Mr. Vlietstra stated that the applicant submitted articles entitled "Regulating New Construction in Historic Districts," and "Regulating New Construction in Historic Districts: Contemporary Design," authored by Eleanor Eссор Gorski, AIA. These articles discuss recommendations for new construction in an historic district and were submitted to the National Trust For Historic Preservation for publication. These recommendations are for construction on a vacant lot or infill construction in a row house district or new chain store in an historic commercial district. They do not address the demolition of existing homes or their complete replacement.

Mr. Vlietstra stated that Board members conducted a very thorough review of all the materials submitted and used the DEC Guidelines and Secretary of the Interior Standards in evaluating this application. The factors considered are impacts on historic resources, community character, aesthetic resources, and consistency with community plans.

Ms. Zoghlin stated that the Board has reviewed Exhibits A-I of the draft determination. Exhibit J is the National Register of Historic Places registration form, and Exhibit K is DEC policy "Assessing and

Mitigating Visual Impacts". She explained that Exhibit J is the National Register of Historic Places application that the Village made when it sought an increase in the historic district. It is a document that is on file in the Village Office, and was used by the Board when it considered some of the claims made by the applicant concerning the character of the some of the other historic buildings in the Village. Exhibit K is the DEC Program Policy "Assessing and Mitigating Visual Impacts" previously mentioned. After the Board received additional documentation from the applicant at the last meeting, some Board members made independent analyses and researched to find ways to put that into context, using Exhibit K, which the Board found helpful in evaluating the scenic viewshed.

The Board next filled out Part 2 of the full Environmental Assessment Form. The 18 criteria were discussed and evaluated for potential environmental impacts. The Board concluded that there are potentially significant adverse environmental impacts in the following areas: impacts on historic resources, community character, aesthetic resources, and consistency with community plans.

**Motion:** Chairperson Vlietstra made a motion, seconded by member Lhota, to adopt Part 2 of the full Environmental Assessment, as discussed.

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

The Board next filled out Part 3 of the full Environmental Assessment Form.

**Motion:** Chairperson Vlietstra made a motion, seconded by member Bove, that the Planning Board, as SEQRA Lead Agency, hereby adopts a resolution issuing a positive declaration of environmental significance for the Proposed Action, finding that there is a potential for at least one or more potentially significant adverse environmental impacts that may result from the Proposed Action, and incorporating by reference into this resolution the attached Positive Declaration contained in the FEAF Part 3; that the Planning Board, as Lead Agency, will require the preparation of a DEIS for the review of the proposed Action; and that the Notice of Positive Declaration should be filed, circulated and published as required by SEQRA, and that the Planning Board Chair and other appropriate Village Officers are authorized to take such other and further action as might be necessary to meet the Planning Board's obligations as Lead Agency or as otherwise might be appropriate in its role as Lead Agency and as an Involved Agency.

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

**Motion:** Chairperson Vlietstra made a motion, seconded by Member Bove, to adjourn the meeting at 10:30 pm.

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

## VILLAGE OF PITTSFORD PLANNING BOARD

### RESOLUTION 2017-7A DECISION ON SEQRA LEAD AGENCY

**Project**44 Sutherland Site Plan **Date:** 6-19-2017

**Applicant Name:** Jon Schick, Architect  
**Address:** 278 East Avenue Rochester, NY 14604  
**Action:** Demolition of a single family residence at  
44 Sutherland St. and replace it with a new single  
family residence.

At a regular meeting of the Village of Pittsford Planning Board held at the Village Hall on the 19<sup>th</sup> day of June 2017 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  
Jeffrey Bove  
Heather Erwin  
Susan Lhota  
JoAnne Shannon

Mindy L. Zoghlin, Esq., PZBA Attorney

ABSENT: None.

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

**WHEREAS**, On September 21, 2015 Jon Schick submitted an application to the APRB on behalf of David and Tina Mattia (the “Applicant”) seeking a Certificate of Approval to demolish the single family residence at 44 Sutherland Street, Village of Pittsford (the “Existing House”) House and replace it with a new one (the “Replacement House”) (the “Proposed Action” or “Action”) and **WHEREAS**, on October 9, 2015 the Applicant submitted a Full Environmental Assessment Form (“FEAF”) to the APRB which described the proposed action as “demolish the existing single family, 2-story, wood-framed residence and replace it with a new single family 2-story, wood framed residence in a Preservation District. The need for demolishing the existing house is that it is extremely contaminated with various types of toxic mold from the basement through the attic,” and

**WHEREAS** On August 31, 2016, the APRB Chairman stated it was a Type II action under SEQRA 6 NYCRR 617.5(c)(2) (replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4(1).

**WHEREAS** The Planning Board is not bound by the APRB’s SEQRA classification because there was no coordinated review or a determination of environmental significance per 6 NYCRR 617.6(b)(3)(iii).

**WHEREAS**, on January 19, 2017 the Applicant applied to the Village of Pittsford Planning Board (the “Planning 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**, on April 4, 2017, the Planning Board classified the action as Type I under the New York State Environmental Quality Review Act (“SEQRA”), and declared its intention to act as lead agency for the purpose of reviewing the environmental impacts of the Proposed Action under SEQRA, and

**WHEREAS**, Pursuant to section 617.6 of the regulations implementing the State Environmental Quality Review Act (“SEQR”), on April 4, 2017, the Village of Pittsford Planning Board sent notice of its intent to be SEQRA lead agency regarding the Project to the following interested agencies and members of the public:

- Village of Pittsford Architectural and Preservation Review Board
  - Monroe County Dept. of Planning and Development
  - Pittsford Fire District
  - Board of Fire Commissioners
  - Historic Pittsford
  - Monroe County Department of Health
  - Environmental Management Council
  - New York State Department of Environmental Conservation
-

- Landmark Society of Western New York
- NY State Office of Parks and Recreation and Historic Preservation (SHPO);

**WHEREAS**, No objection was made by these agencies to the request for lead agency status; 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) and May 15, 2017, 2017, and June 19, 2017 and

**WHEREAS**, the Planning Board received and considered comments from members of the public, and

**WHEREAS**, the Planning Board received and considered comments from the Applicant, its Architect, Jon Schick, and its Arborist, Bill Neuman, and

**WHEREAS**, the Planning Board closed the public comment period for the Action on June 19, 2017 but only as it pertains to the determination of environmental significance under SEQRA; the public comment period and public hearing for the underlying application for site plan approval and SEQRA will remain open.

**NOW THEREFORE BE IT RESOLVED** that, the Planning Board does hereby establish itself as the SEQRA Lead Agency for the Action.

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

Justin Vlietstra - Yes  
 Jeffrey Bove – Yes  
 Heather Erwin- Yes  
 Susan Lhota - Yes  
 JoAnne Shannon - Yes

Dated: June 19, 2017  
 Pittsford, New York

By order of the Village of Pittsford Planning Board

**VILLAGE OF PITTSFORD  
 PLANNING BOARD**

**RESOLUTION 2017-7B DECISION ON SEQRA SIGNIFICANCE**

**Project:** 44 Sutherland Site Plan **Date:** **6-19-2017**

**Applicant Name:** Jon Schick, Architect  
**Address:** 278 East Avenue Rochester, NY 14604  
**Action:** Demolition of a single family residence at  
44 Sutherland St. and replace it with a new single  
family residence.

At a regular meeting of the Village of Pittsford Planning Board held at the Village Hall on the 19<sup>th</sup> day of June 2017 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  
Jeffrey Bove  
Heather Erwin  
Susan Lhota  
JoAnne Shannon

Mindy L. Zoghlin, Esq., PZBA Attorney

ABSENT: None.

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

**WHEREAS**, On September 21, 2015 Jon Schick submitted an application to the APRB on behalf of David and Tina Mattia (the “Applicant”) seeking a Certificate of Approval to demolish the single family residence at 44 Sutherland Street, Village of Pittsford (the “Existing House”) House and replace it with a new one (the “Replacement House”) (the “Proposed Action” or “Action”) and **WHEREAS**, on October 9, 2015 the Applicant submitted a Full Environmental Assessment Form (“FEAF”) to the APRB which described the proposed action as “demolish the existing single family, 2-story, wood-framed residence and replace it with a new single family 2-story, wood framed residence in a Preservation District. The need for demolishing the existing house is that it is extremely contaminated with various types of toxic mold from the basement through the attic,” and

**WHEREAS**, on January 19, 2017 the Applicant applied to the Village of Pittsford Planning Board (the “Planning 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**, on April 4, 2017, the Planning Board classified the action as Type I under the New York State Environmental Quality Review Act (“SEQRA”), and declared its intention to act as lead agency for the purpose of reviewing the environmental impacts of the Proposed Action under SEQRA, 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) and May 15, 2017, 2017, and June 19, 2017 and

**WHEREAS**, the Planning Board received and considered comments from members of the public, and

**WHEREAS**, the Planning Board received and considered comments from the Applicant, its Architect, Jon Schick, and its Arborist, Bill Neuman, and

**WHEREAS**, the Planning Board retained Engineer Scott Harter, P.E. and Landscape Architect Mary Scipioni to assist in the environmental review of the Proposed Action, and

**WHEREAS**, the Planning Board reviewed Part I of the FEAF prepared by the Applicant and prepared Parts 2 and 3 of the FEAF for the Proposed Action, and

**WHEREAS**, the Planning Board closed the public comment period for the Action on June 19, 2017 but only as it pertains to the determination of environmental significance under SEQRA; the public comment period for the underlying application for site plan approval and SEQRA will remain open.

**WHEREAS**, upon review of the FEAF and the relevant environmental criteria under SEQRA, the Planning Board believes that the preparation of a Draft Environmental Impact Statement (“DEIS”) is warranted.

**NOW THEREFORE**, be it resolved that, the Planning Board, as SEQRA Lead Agency, hereby issues a positive declaration of environmental significance for the Proposed Action, finding that there is a potential for at least one or more potentially significant adverse environmental impacts that may result from the Proposed Action, and incorporating by reference into this resolution the attached Positive Declaration contained in the FEAF Part 3; and

**BE IT FURTHER RESOLVED**, that the Planning Board, as Lead Agency, will require the preparation of a DEIS for the review of the proposed Action; and

**BE IT FURTHER RESOLVED** that the Notice of Positive Declaration should be filed, circulated and published as required by SEQRA, and

**BE IT FURTHER RESOLVED**, that the Planning Board Chair and other appropriate Village Officers are authorized to take such other and further action as might be necessary to meet the Planning) Board's obligations as Lead Agency or as otherwise might be appropriate in its role as Lead Agency and as an Involved Agency.

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

Justin Vlietstra - Yes  
Jeffrey Bove – Yes  
Heather Erwin- Yes  
Susan Lhota - Yes  
JoAnne Shannon - Yes

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

June 19, 2017

Pittsford, New York

By order of the Village of Pittsford Planning Board

STATE ENVIRONMENTAL QUALITY REVIEW  
NOTICE OF DETERMINATION OF SIGNIFICANCE  
POSITIVE DECLARATION

June 20, 2017

This notice is issued pursuant to 6 NYCRR part 617.6(b) of the implementing regulations pertaining to article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village Planning Board, as lead agency, has determined that the proposed action described below may have a significant effect on the environment and that a Draft Environmental Impact Statement will be prepared.

NAME OF ACTION: 44 Sutherland Street, Village of Pittsford, NY SEQR

STATUS: Type 1

Scoping: No.

Location: 44 Sutherland Street, Village of Pittsford, Monroe County, New York (Tax Account No. 164.06-1-74).

DESCRIPTION OF ACTION: The applicant proposes to demolish an existing single-family residence and construct a new 3420 SF, 2-story, wood frame residence with attached 3-car garage to replace the existing residence. The existing residence is a contributing structure in the Village of Pittsford Historic District (the “Proposed Project” or “Action”).

**REASONS SUPPORTING THIS DETERMINATION:**

The Village Planning Board found that the proposed Project is likely to have a potentially significant adverse impact on the environment in the following manner:

**a. Historic Resources: The proposed action is likely to impair the character of quality of important historical resources. 6 NYCRR 617.7(c)(1)(v).**

The Proposed Action is virtually certain to have a large, permanent adverse impact on the character or quality of important historic resources. According to the approved APRB meeting minutes of December 5, 2016:

“The National Register of Historic Places is the official system for documenting and recognizing buildings and

districts that are significant in the history, architecture, and culture of the nation. The house at 44 Sutherland Street was built in 1949 and is considered a contributing building of the Village of Pittsford because it is part of the historic district. The original house was designed by the noted Rochester architectural firm of Kaelber and Waasdorp and embodies the distinctive characteristics of a mid-century Tudor Revival style, which is representative of the construction and style of mid-century architecture in Rochester. The house represents the work of two influential architects of the period in Rochester who were involved in multiple influential architecture projects in Rochester, such as the Eastman Theater and the Sibley Building. While the 1977 garage addition presents a significant change in the configuration and character of the house, the addition remains sympathetic to the original construction, and the significant features of the original structure remain evident, notwithstanding the 1977 addition.”

The Existing House is a contributing structure to the Village of Pittsford Historic District. It was designed by the renowned local architectural firm of Kaelber and Waasdorp and embodies the distinctive characteristics of a mid-century Tudor Revival style. The Existing House is unique in that it is one of approximately 12 brick houses in the historic district. The style of the Existing House has some coherence. It is a recognizable style in a highly identifiable residential block that is a visible anchor to the village.

The applicant proposes to demolish the Existing House and replace it with a new house (the “Replacement House”). The Replacement House will not replicate the Existing House. Rather, it will be a new structure that is inspired by various other properties in the region and has incorporated various elements from other homes in the area.

The exterior design of the proposed Replacement House is not consistent with the Existing House for the following reasons:

|                     | <b>Existing House</b>                         | <b>Replacement House</b>                                  |
|---------------------|-----------------------------------------------|-----------------------------------------------------------|
| Color               | Dark                                          | Light                                                     |
| Materials           | Brick with some wood clapboard                | Composite clapboard with some composite board & batten    |
| Architectural Style | Single definable historic architectural style | Combination of architectural styles that appears suburban |

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|            | <b>Existing House</b>                                                    | <b>Replacement House</b>                                                   |
|------------|--------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Windows    | Uniform window sizes and styles                                          | Different window sizes and styles.                                         |
| Roof       | Simple roof lines                                                        | Multiple roof lines.                                                       |
| Garage     | 2-car garage in front of house                                           | 3-car garage on side of house                                              |
| Dormers    | Gable dormers on front                                                   | Multiple styles: shed dormers on the front, gable dormers on the side      |
| Front Door | Front door faces Sutherland Street as a prominent architectural feature. | Front door is perpendicular to Sutherland Street and obstructed from view. |

The project will affect the physical integrity of the building because the applicant proposes to demolish it.

The impact to historic resources would be permanent because the applicant proposes to demolish the Existing House. The likelihood of impact is virtually certain. The applicant will demolish the Existing House if the application is granted.

#### The Gorski Articles

The applicant submitted articles entitled “Regulating New Construction In Historic Districts,” and ““Regulating New Construction in Historic Districts: Contemporary Design” authored by Eleanor Essor Gorski, AIA. These articles discuss recommendations for new construction in an historic district and was submitted to the National Trust For Historic Preservation for publication.

These recommendations are for construction on a vacant lot or infill construction in a row house district or new chain store in an historic commercial district. They do not address the demolition of existing homes or their complete replacement. Moreover, Gorski acknowledge that “The recommendations that follow will help preservation commissions make decisions on proposed new construction projects, but **they do not and cannot provide absolute solutions.** (Emphasis added.) Every request for new construction in a historic district is site **specific and what was successful in one location can be a disaster in another.**” (Emphasis added.) Since the articles contain mere general recommendations that are not binding on the Planning Board or site-specific, the Gorski articles do not change the Board’s determination of environmental significance for this matter.

## 12 Color Photos and Sections 2 and 3 of the Village of Pittsford Building Design Standards.

The applicant submitted 12 color photos, a tax map showing the location of each photograph and Sections 2 and 3 of the Village of Pittsford Building Design Standards at the May 22, 2017 meeting.

Section 2 of the Village History and Architecture for the Village of Pittsford Building Design Standards states that over 80% of the village's housing stock is over fifty years old. "Real estate in the village is sought after because of the architectural appeal of the houses.... And the appeal of village living." (Village of Pittsford Building Design Standards, page 7)

The current homes in the Village are a mix of several styles or no discernable style at all and are indicative of the time in which they were constructed though "design, materials and details." (Village of Pittsford Building Design Standards, page 11)

The Village contains the following types of architecture:

1. Federal (1800-1835)
2. Greek Revival (1835-1855)
3. Gothic Revival (1845-1865)
4. Italianate (1855-1880)
5. Queen Anne (1880-1905)
6. Colonial Revival (1895-1945)
7. Foursquare (1905-1920)
8. Craftsman (1900-1925)
9. Tudor Revival (1900-1945)

The existing homes along Sutherland Street were built between 1906 – 1951. The Colonial Revival, the eclectic Tudor Revival, Craftsman-style bungalow and the American Foursquare architecture dominate the neighborhood. The Village of Pittsford Historic District (Boundary Increase) submission to the United States Department of Interior National Park Service/ National Register of Historic Places Registration Form (the "National Register of Historic Places Registration"), pages 87-91.

New construction must "harmonize" with the existing neighborhood and historic character. Village of Pittsford Building Design Standards, page 8. The proposed Replacement House has a modern appearance and does not harmonize with the existing neighborhood.

The information contained in the photos and the Village of Pittsford Building Design Standards supports issuance of a positive declaration of environmental significance.

The applicant submitted twelve colored photographs of homes situated on Sutherland Street and a home on South Main Street to illustrate that there is an eclectic character to the homes in the historic district and there is not one consistent architectural style that predominates. For the reasons set forth above, the 12 color photographs support the Board's decision herein.

The applicant submitted minutes from the October 17, 2017 PZBA minutes regarding 36 Sutherland Street to support its request that the Planning Board issue a negative declaration of environmental significance for this action. 36 Sutherland involved an application for expansion of the existing home and a new 3 car detached garage owner. The PZBA classified the 36 Sutherland Street application as Type II, exempt from SEQRA review. The Board subsequently granted Preliminary Site Plan Approval and Final Site Plan Approval.

The applicant suggests that the two applications are similar but have been treated differently. This Board classified this application as a Type I action, whereas it classified the 36 Sutherland application as a Type II action not subject to SEQRA.

The Board has carefully considered the applicant’s suggestion and, for the reasons set forth below, disagrees.

This Board is familiar with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (1995) (the “Standards and Guidelines”) and found it to be useful in providing an objective set of criteria for assessing the similarities and differences between the applications for 36 Sutherland and 44 Sutherland Street:

|                                                                                                                                                                                 | <b>36 Sutherland</b>                                                                                                                             | <b>44 Sutherland</b>                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships. | Used residentially, alterations did not significantly change the front façade and distinctive original materials visible from the street remain. | Used residentially, all original materials will be demolished.                                               |
| 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and                             | Alterations did not significantly change the front façade and distinctive original materials visible from the street.                            | All original materials, features, spaces, and spatial relationships will be demolished. The new construction |

|                                                                     | <b>36 Sutherland</b>                                                                          | <b>44 Sutherland</b>                                 |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------------------------|
| spatial relationships that characterize a property will be avoided. | New construction and materials emulate the original materials so the character is maintained. | does not attempt to recreate the original character. |

|                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                |                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.</p> | <p>New construction and materials emulate the original materials so the character is maintained.</p>                                                                                                                                           | <p>The new construction incorporates features from a variety of architectural styles and periods observed on other properties.</p>                                       |
| <p>4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.</p>                                                                                                                                       | <p>Alterations did not significantly change the front façade and distinctive original materials visible from the street remain. A side addition was altered but is minimally visible from the street and was not historically significant.</p> | <p>The entire structure is to be demolished.</p>                                                                                                                         |
| <p>5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.</p>                                                                                                     | <p>Distinctive original materials were preserved.</p>                                                                                                                                                                                          | <p>All distinctive original materials are to be demolished and discarded.</p>                                                                                            |
| <p>6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture,</p>                                  | <p>New materials for the rear addition were selected to match the old as much as possible in appearance.<br/>Windows, stone masonry, roof, trim all were selected to</p>                                                                       | <p>Windows, siding, roof, dormers, trim, are all changed.<br/>The siding is being converted from brick to a fly-ash composite clapboard which is an especially large</p> |

|                                                                                                                                    |                                                                            |                                         |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------|
| <p>and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.</p> | <p><b>36 Sutherland</b><br/>be compatible with the original materials.</p> | <p><b>44 Sutherland</b><br/>change.</p> |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                           |                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.                                                                                                                                                                                                                    | The original materials on the front façade were maintained.                                                                                                                                                                                                                               | The physical treatment of demolition is not gentle and will destroy all historic materials.                                 |
| 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.                                                                                                                                                                                                                                                 | No archeological resources of significance are known to be on the site.                                                                                                                                                                                                                   | No archeological resources of significance are known to be on the site.                                                     |
| 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment. | New additions were built on the side and rear and are minimally visible from the street. Great effort was made to have materials on the addition match the original house. The house was enlarged but a large house on a large property with a large setback was found to be appropriate. | The new house matches the size and scale of the existing house but all historic materials and features are to be destroyed. |
| 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its                                                                                                                                                                                                  | The original front façade remains, additions were made to the rear and side.                                                                                                                                                                                                              | Demolition of the structure is permanent and the original structure cannot be restored.                                     |

|                                  |                      |                      |
|----------------------------------|----------------------|----------------------|
|                                  | <b>36 Sutherland</b> | <b>44 Sutherland</b> |
| environment would be unimpaired. |                      |                      |

Using the Standards and Guidelines as an objective basis for comparison, this Board finds that the two applications are sufficiently different to justify treating the 36 Sutherland application as a Type II action and the 44 Sutherland application as a Type I action.

## **25 RAND STREET**

The applicant suggested that this Board's handling of the application for 25 Rand Street is inconsistent with its handling of this matter. Not so.

In 25 Rand Street, the original front façade was left unchanged. Changes were made to the rear with small visibility from the front of the house. Moreover, the new construction for 25 Rand Street used materials and architectural design consistent with the original house. Finally, no changes to drainage, lighting, landscaping, grade, front of house, architectural style.

Here, in contrast, the applicant proposes to demolish the Existing House. The Replacement House will be visible from the street. The materials and architectural design of the Replacement House differs from the Existing House. There are changes to the drainage, lighting, landscaping, grade, front of house, architectural style.

## **PITTSFORD DAIRY**

Mr. Schick's letter to the Planning Board dated May 21, 2017 suggests that the Planning Board's treatment of this application is inconsistent with the manner in which the Pittsford Dairy application was submitted in 2006 because PZBA granted the Pittsford Dairy approval to demolish the existing building and construct a new building in the same meeting without requiring any SEQRA review. The Board researched the 2006 file and has considered the following documents:

- Pittsford Dairy Application to Planning Board for Site Plan Approval dated October 4, 2006;
- Short EAF dated October 4, 2006;
- Pittsford Dairy Farms Creamery Demolition Application Including Historic Resource Evaluation, Project Summary, and Schematic Design of New Dairy Building dated January 28, 2007;
- APRB meeting minutes from February 5, 2007;
- Development Review Committee review dated October 31, 2007;
- Letter from Pittsford Dairy to Board of Trustees dated November 7, 2007 requesting special permit to serve food;
- Development Review Committee meeting minutes of August 21, 2008;
- PZBA Meeting Minutes of August 25, 2008;
- Memo from PZBA to Board of Trustees;
- Letter from Planning Board to applicant dated September 5, 2008 granting conditional approval of the proposed site plan approval;
- Letter from APRB to applicant dated September 22, 2008 approving applications; and
- Application for a Building Permit dated January 9, 2009.

For the reasons set forth below the Planning Board finds that its handling of the Pittsford Dairy application was appropriate and there are substantial differences between the two applications.

The Pittsford Dairy, located at 44 North Main Street, in the Village of Pittsford, is situated in a B-2 and R-1 zoning classifications and is part of a Performance Zoning Overlay District. The property contains a large home, barns and other outbuildings. Since 1892, the property has also operated a creamery.

Pittsford Dairy applied to the Planning Board on October 4, 2006 for permission to demolish two buildings on the site and to approve the proposed barn to continue to operate a retail and milk bottling facility. The retail operation and milk bottling operation were historically housed in the existing 1892 creamery building which would be moved to another part of the property.

The reason for the submittal was that the existing facilities were obsolete, too small in size and did not conform to the then current New York State Department of Agricultural & Markets regulations which required the boiler, milk processing equipment and ice maker to be in separate locations.

There are several differences between the applications for Pittsford Dairy and 44 Sutherland:

1. The Pittsford Dairy is a commercial operation. 44 Sutherland is residential.
2. The proposed Pittsford Dairy barn replicated architectural features of that era as can be seen by the appended pictures of the outbuildings at that time. 44 Sutherland Street does not.
3. The Pittsford Dairy barn harmonizes with the existing Italianate architecture on site and the surrounding neighborhood. 44 Sutherland Street does not.
4. The proposed barn structure is similar to the 1892 Barn Complex. 44 Sutherland Street makes no attempt to blend its proposed contemporary residence into the neighborhood.
5. The Pittsford Dairy proposed barn is in a Performance Zoning Overlay District which permits further latitude in design. 44 Sutherland Street is not located in that district.
6. The Pittsford Dairy Barn application was necessitated by the NYS Department of Agriculture and Marketing regulations changes which mandated that elements of the bottling operation be separate. Given the size of the building, that was not feasible. The need to demolish the Existing House at 44 Sutherland Street was not due to any public health directive by the Monroe County Health Department or any other governmental agency.
7. The approval for the Pittsford Dairy Barn did not happen overnight. A letter dated November 7, 2007 to the Board of Trustees from Charles Corby, Pittsford Dairy Farms, outlined the need to replace the existing dairy building. The application was submitted to the APRB January 28, 2007. The PZBA approved the site plan on August 25, 2008 reserving lighting, landscaping and signage details and approval of

the drainage plan by the Village Engineer. The APRB on September 8, 2008 approved the application for construction of a new dairy facility and the demolition of the dairy building. The entire process took almost 22 months – not as alleged by the applicants’ architect “all at the same meeting.” Also, the Planning Board granted its approval before the APRB issued its decision on the demolition of the existing dairy building. The same procedure should have been followed in connection with 44 Sutherland.

Moreover, the record in the Pittsford Dairy matter established that there were specific factors supporting the determination to demolish the structure:

1. The dairy has lost its architectural integrity, only one of the four original exterior walls remains intact.
2. Low (6’4”) headroom prevents adapting the building to comply with current codes.
3. Loss of the original building’s floor system and walls and an inadequate structural system supporting the roof and floors would require the structure to be entirely rebuilt if it were rehabilitated for a new use.
4. The dairy’s location adjacent to the main house limits its potential to house a new use. A commercial or residential use in this location would infringe on the continued use of the main house as a residence and would require parking which would compromise the setting of the house and its historic landscape. The Secretary of the Interior’s Standards for Rehabilitation recommend retaining the original use of historic buildings where possible. Those Standards have been adopted by the village APRB.
5. The dairy is located behind the main house so its removal will not significantly alter the view of the property from North Main Street.

Finally, Pittsford Dairy analyzed and evaluated the pertinent historic resources, and four different locations for the new dairy site. The house and grounds were deemed the two most historically significant features. Preserving the grounds required moving another historic structure to a new location on the site. Moving this structure instead of demolishing it again shows the extent of historic preservation efforts. In evaluating the alternatives, the applicant considered potential impacts to historic resources and ultimately selected the one that would have the least impact: “The Italianate exterior of the main house and most of the surviving outbuildings reflect architecture of the third quarter of the 19<sup>th</sup> Century. The proposed new dairy has been carefully designed to harmonize with the farm’s historic structures and incorporates numerous design elements that reflect building practices of the 1860-1875 period.” Pittsford Dairy Farms Creamery Demolition Application Including Historic Resource Evaluation, Project Summary, and Schematic Design of New Dairy Building dated January 28, 2007, page 23. No such analysis was done with respect to 44 Sutherland.

#### Color issue

The applicant has stated that this Board is not permitted to consider the fact that the proposed Replacement House would be a light color, as opposed to a dark color like the existing house. We disagree with the applicant on this point because the change in color from dark to light creates a

focal point where one did not previously exist. Moreover, the Standards and Guidelines specifically recommend against radically changing the type of paint or coating or its color. See page 67 of the Standards and Guidelines.

**b. Community Character: The proposed action is likely to impair existing community or neighborhood character. 6 NYCRR 617.7(c)(1)(v).**

The Proposed Action is virtually certain to have a permanent moderate to large impact on existing community or neighborhood character. For the reasons set forth above, the historic character of the Sutherland Drive neighborhood and the Village Historic District will significantly change if the Existing Home is demolished and replaced with the proposed Replacement Home.

Objective criteria may be used to guide what is essentially a subjective evaluation of how the proposed Replacement House will impair the existing community or neighborhood character. The proposed exterior, design, arrangement, material and fenestration that is proposed does not replicate the original structure, is not appropriate to the neighborhood and does not seem “genuine” in the context of this neighborhood. Demolition will damage the community character and the proposed replacement structure will not be consistent with the community character.

The proposed action will damage the Village scape. There is a long tradition in the Village of Pittsford is to retain architecturally significant homes, as well as the feel of the various neighborhoods within the village. If the Existing Home is replaced as proposed, the emphasis and focal point will disturb the current rhythm and flow of streetscape as it exists today and has for decades.

The materials proposed for the Replacement House are in contrast to the materials of the Existing House. Changing the material from brick to clapboard and the color from dark to light creates a focal point where none existed before, interrupts the rhythm and flow of the neighborhood.

The Existing House has a single historic identifiable architectural style. The proposed Replacement House is “suburban” and a mixture of elements from other architectural styles in the village.

The current house is simple in form and represents its era. Nearby houses also represent the era they were constructed. The proposed house has a complex form, contemporary materials, and inconsistent architectural features that make it appear to be contemporary suburban, not historic.

Moreover, the Existing House blends in with the rest of the homes on the street. The proposed Replacement House would impair existing community and neighborhood character because:

- The Replacement House is not consistent with the rhythm and patterning other historic structures on the street.
- The Replacement House changes dramatically from the original architectural style (designated as historic) and was admitted to be a combination of other houses in the community to create a "suburban aesthetic" rather than to the original historic aesthetic established on site itself.

It is consistent with longstanding community values to preserve, not demolish, an existing historic home.

The Replacement House lacks a feeling of “genuineness” because it attempts to incorporate so many different styles.

The proposed action would have a moderate to large impact on neighborhood or community character because the proposed Replacement House significantly changes the visual character of the area and its building design is in sharp contrast to that which exists.

Demolition of the Existing House and construction of the Replacement House at 44 Sutherland Street would result in a permanent change. The impact is virtually certain: If approved, demolition and reconstruction will occur.

**c. Aesthetic resources: The proposed action is likely to impair existing aesthetic resources. 6 NYCRR 617.7(c)(1)(v).**

The Proposed Action is virtually certain to have a permanent, moderate to large impact on existing aesthetic resources. Demolition of the Existing House and constructing the proposed Replacement House at 44 Sutherland Street is inconsistent with other land uses that may be seen from or part of the scenic historic district.

44 Sutherland is visible from the Historic District. Most or all of the Existing House and proposed Replacement House is readily visible from the public lands and roads of the Historic District. 44 Sutherland is particularly visible because it is across the street from Pittsford Sutherland High School.

The Proposed Action would have a moderate to large impact because:

- 44 Sutherland is in the Village of Pittsford Historic District;
- The project is highly visible; and
- Demolition of the Existing House and construction of the Replacement House would change the visual aspect of the historic district.

Demolition of the Existing House and construction of the Replacement House will result in a permanent change. If approved, demolition will occur.

The applicant suggests that this Board has misinterpreted 6 NYCRR 617.7(c)(1)(v) as it applies to assessing impacts to existing aesthetic resources. We disagree.

The Workbook clarifies what no, small, moderate and large impacts mean. See <http://www.dec.ny.gov/permits/91690.html>. They contain specific guidance as to how to assess impacts to aesthetic resources. See <http://www.dec.ny.gov/permits/91750.html>.

The Workbook guidance as assessing impacts on aesthetic resources for Part II of the FEAF states that:

“Officially designated scenic areas include scenic byways, scenic roads, scenic areas of statewide significance, scenic trails, and scenic rivers. Other designated areas may also include places or sites listed on the National or State Registers of Historic Places, State Parks, State Forest Preserve areas, State Game Refuges, National Natural Landmarks, and National Park Service Lands.”

DEC guidelines for evaluating the question “b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views” interchangeably use ‘Scenic View’ and ‘Scenic Resource’ and give guidelines for analysis and classification of the magnitude of impacts:

“Any project activity that changes the views from or to a scenic resource could potentially have adverse impacts.”

...

“Analysis

- Are any new structures, including signs, fences or landscaping placed on the project site in such a way as to obstruct views from or to a scenic resource?
- Have any changes been proposed that will remove landscaping or fences that screen non-scenic resources also visible from or to a scenic area?”

...

“Moderate to Large Impact: Some examples of moderate to large impacts that might fall into this category are:

- The project will obstruct or partially obstruct publicly accessible views of the scenic resource.
- The project is situated so that it changes the visual aspect of the scenic resource by being in sharp contrast to the surrounding land uses or by screening the scenic resource.
- The project will eliminate or partially eliminate, obstruct, or screen the scenic resource.”

Additional guidance may be found in the DEC Policy System Program Policy for Assessing and Mitigating Visual Impacts issued 7/31/00 (the “Visual Impact Guidance”). The Visual Impact Guidance includes an Inventory of Aesthetic Resources” that enumerates aesthetic resources of concern. Item (1) on this list is “A property on or eligible for inclusion in the National or State Register of Historic Place.” Analysis of impacts in this memorandum is not specific to any particular type of aesthetic resource; evacuation of impacts to a state park, historic place, or state recreational river follow the same general guidelines.

Based on the DEC’s guidelines and memorandum, “Scenic View”, “Scenic Resource”, “Aesthetic Resource”, this Board determines that it may use those terms interchangeably for the purposes of evaluating environmental impacts to aesthetic resources.

**d. Consistency with Community plans: The proposed action is inconsistent with community plans. 6 NYCRR 617.7(c)(1)(v).**

The Proposed Action is virtually certain to have a large, permanent inconsistency with community plans. Historic preservation is a key deeply rooted value in the Village of Pittsford community. Destroying an historic structure is not consistent with the core value for the community.

The Village has many of the historic preservation requirements. For example, the Village Code section 210-57 states:

Pursuant to the provisions of § 96-a and Article 5-K of the New York General Municipal Law, it is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of buildings, structures, places and sights of historic, architectural, cultural or aesthetic value is a public necessity and purpose in the Village of Pittsford.

The Village of Pittsford Comprehensive Plan states that one of its principles for the future is to maintain the Village’s residential and historic character:

The Village is fortunate to have retained a wealth of early nineteenth-century, late nineteenth-century, and early twentieth-century architecture. The Village’s historic character is an outstanding resource, attracting both new residents and visitors, and must be maintained. To ensure its preservation, the Village must continue educational outreach and proper administration of its preservation ordinance, and modify its zoning to encourage compatible new construction and site design. Village of Pittsford Comprehensive Plan, January 2002, section 1.2

Demolishing an historic structure and replacing it is in sharp contract with the Village’s goals and values.

There will be a moderate to large impact because the proposed project is not consistent with the long-term plans and local laws that value preservation of historic structures. Demolition will result in a permanent change. If approved, demolition will almost certainly occur.

**CONCLUSIONS**

For these reasons, the Proposed Action may include the potential for at least one significant adverse environmental impact. The Applicant is hereby directed to prepare a Draft Environmental Impact Statement pursuant to the provisions of 6 NYCRR 617.9.

FOR FURTHER INFORMATION: Contact Linda Habeeb, Recording Secretary, Village of Pittsford, 21 North Main Street, Pittsford, NY 14534. Tel: 585-586- 4332, [lhabeeb@villageofpittsford.com](mailto:lhabeeb@villageofpittsford.com)

A copy of this Notice must be sent to:

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Village of Pittsford Architectural and Preservation Review Board  
Maria Huot, Chairperson  
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Monroe County Dept. of Planning and Development  
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50 West Main Street Rochester, NY  
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Pittsford Fire District  
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Board of Fire Commissioners  
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