

**VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Special Meeting May 1, 2019 at 6:00 PM**

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Susan Lhota

Motion: Chairperson Vlietstra made a motion, seconded by Member Shannon, to call the meeting to order at 6:15.

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

Conflict of interest disclosure: None of the members had conflicts of interest to declare.

Impact Earth, 35 Lincoln Avenue ~ Temporary Permit

Discussion: Chairperson Vlietstra explained that this is a continuation of a public hearing for a temporary zoning permit to allow the seasonal operation of a farmer’s market at 35 Lincoln Avenue on Saturday mornings, between the hours of 9am and 1pm. At the previous meeting, board members expressed some concerns about the close proximity of the market activities to the neighboring houses on the side of the lot. Members suggested that the activity be relocated farther from the residential areas. Board members agreed that locating activities more centrally on the site is preferred.

The Board reviewed a revised site plan that the applicant submitted, based on the board’s comments. Member Vlietstra noted that on the revised plan, the market activities and music are more centrally located on the site.

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

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

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to adopt Resolution 2019-7, approving a temporary permit for Impact Earth to conduct the farmer’s market.

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

**Village of Pittsford
Zoning Board of Appeals**

RESOLUTION 2019-7 Decision on Temporary Zoning Permit

Project: Farmers Market Temporary Zoning Permit

Date: 05-1-2019

Applicant Name: Robert Putney, Impact Earth

Address: 2340 BHTL Rd
Rochester, NY 14623

Action: Seasonal operation of a farmers Market at the Community Centre,
35 Lincoln Ave.

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

WHEREAS, the Village of Pittsford Zoning Board of Appeals (the “Board”) received an application from Robert Putney of Impact Earth, Inc. for a temporary zoning permit to allow the seasonal operation of a Farmers Market (the “Proposed Use” or “Event”) at the Community Center, 35 Lincoln Ave., pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford, and

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

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application, letter of intent, site plan sketch, email from Town of Pittsford Fire Marshal, Kelly Cline, ZBA minutes from the applicant’s 2018 application for a temporary zoning permit, and

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

1. The proposed action is a minor temporary use of land having negligible or no permanent impact on the environment, and therefore is a Type II action that is not subject to SEQRA Review pursuant to 6 NYCRR 617.5(c)(21).
2. This application involves a seasonal temporary permit and is therefore exempt from GML 239-m review pursuant to General Municipal Law section 239-m and an Agreement between Monroe County and the Village of Pittsford dated January 11, 1994.
3. The proposed action is not in a waterfront area of the Village of Pittsford so it is not subject to a local waterfront consistency review.
4. Upon issuance of this temporary zoning permit, the proposed use will comply with all regulations, requirements and applicable ordinances of the Village of Pittsford as applicable to the subject property.
5. The Proposed Use is in the R-1 residential district which does not permit farmers markets.
6. The Proposed Use is at the community center in a municipal parking lot where other activities occur such as after school programs for children, senior programs, and other community activities.
7. Residential homes are adjacent to the site.
8. The Proposed Use was previously held at this site in 2016.
9. The Proposed Use does not fit with the general purpose and intent of the Zoning Code for the R-1 district, but the chosen times, nature, intensity, and location of the use adequately limit adverse impacts on the surrounding neighborhood.
10. The Proposed Use will not tend to depreciate the value of adjacent property, considering the temporary nature of the use.

11. The Proposed Use will not create a hazard to health, safety or general welfare.
12. The Proposed Use will not be detrimental to the flow of traffic in the vicinity.
13. The Proposed Use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.

NOW THEREFORE, IT IS RESOLVED that the application of Robert Putney of Impact Earth, Inc. for a temporary zoning permit to allow the seasonal operation of a Farmers Market at 35 Lincoln Ave. pursuant to Chapter 210-109, Temporary permits, of the Code of the Village of Pittsford is hereby granted for the reasons stated above, subject to the following conditions:

1. The farmers market may be operated on Saturdays from June 15, 2019 to September 28, 2019, between the hours of 9 am and 1pm plus reasonable setup and take down time.
2. All signage on Village property shall be removed by 3PM each Saturday.
3. The Town of Pittsford Building Inspector shall be notified at least 1 week prior to operation at any special event.
4. The ZBA reserves the right to revoke the temporary zoning permit if operation of the business creates traffic hazards or unsafe conditions for pedestrians, or if there are health, safety or welfare concerns that are communicated to the applicant and not resolved. If there is an emergency condition, the ZBA may revoke the permit and provide the applicant with a post-revocation hearing. If there is a non-emergency condition, the ZBA shall provide the applicant with notice and an opportunity to be heard on the revocation. The ZBA shall have sole discretion to determine whether a condition constitutes an emergency.
5. The Fire Marshal shall inspect the Farmers Market and shall inspect any food trucks. The Fire Marshal shall be given advance notice of all food service and food trucks that will operate at the Event. All food trucks must have a Rochester Fire Department inspection or other inspection deemed acceptable by the Fire Marshal.
6. The applicant will inform the Village if they receive any complaints or requests regarding the Event.
7. The Applicant shall maintain a liability insurance policy of at least \$1,000,000 naming the Village of Pittsford as certificate holders. Additionally, the applicant shall provide the Village with copies of Certificates of Insurance for all vendors as follows: all food or beverage vendors shall provide a certificate indicating a minimum of \$1,000,000. All non-food/craft vendors shall provide a certificate indicating a minimum of \$300,000 coverage.
8. The applicant shall obtain a Vendor Permit from the Town of Pittsford Public Works Commissioner and comply with its conditions.

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

	Yes	No	Abstain
Justin Vlietstra	X	<input type="checkbox"/>	<input type="checkbox"/>
Susan Lhota	X	<input type="checkbox"/>	<input type="checkbox"/>
JoAnne Shannon	X	<input type="checkbox"/>	<input type="checkbox"/>

Dated: May 1, 2019

By order of the Village of Pittsford Zoning Board of Appeals

Christie McMorrow, 77 N. Main Street ~ Area variance

The legal notice was published in the April 18, 2019 edition of the Brighton-Pittsford Post.

"Please take notice that a public hearing will be held before the Village of Pittsford Zoning Board of Appeals at the Village Hall, 21 North Main Street, Pittsford, New York, on Wednesday May 1, 2019 at 6:00 pm, to consider an application made by Christie McMorrow, owner of property located at 77 North Main Street, for an area variance for installation of an in-ground therapy spa, pursuant to Village Code §180-6, Construction of a swimming pool with a 4-foot rear setback when a 10-foot setback is required."

Discussion: The applicant is proposing to install an in-ground therapy spa in the rear yard of the house located at 77 North Main Street. The spa will include an automatic safety cover meeting ASTM safety requirements. There is an existing 6-foot privacy fence surrounding the entire perimeter of the backyard.

The applicant explained that she has a medical condition requiring water exercise. Member Vlietstra stated that per Village Code, the spa meets the definition of a swimming pool, which is required to be installed 10 feet from the property line. Since the backyard is small, the proposal is to install the pool 4 feet from the property line. He stated that the Board needs to determine whether the benefit to the applicant of installing the spa exceeds the impact to the community. Ms. McMorrow pointed out that the pool will be minimally visible from the surrounding neighbors, and the neighbors on both sides of the house do not oppose the installation of the spa. There is an existing fence surrounding the yard, which has locked gates, and which screens the spa from view. Member Vlietstra stated that he spoke with the Building Inspector regarding the drainage in the area, and he said storm water will not run off onto adjacent properties.

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

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

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to close the public hearing at this time, as there was no one in attendance wishing to make a comment.

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

The Board reviewed the criteria for granting an area variance.

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to adopt Resolution 2019-8, granting the area variance.

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

RESOLUTION 2019-8 DECISION ON AREA VARIANCE

Project **77 N. Main Pool**

Date: 5-1-2019

Applicant Name: Christie McMorrow

Address: 77 North Main St
Pittsford NY 14534

Action: Construction of an in-ground therapy spa

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the "Board") duly convened May 1, 2019, at 6:00 PM at Village Hall, 21 N. Main St, Pittsford, NY 14534, The following resolution was offered by Board Member Justin Vlietstra, who moved its adoption, and seconded by Board Member Lhota, to wit:

WHEREAS, The above named applicant for an Area Variance of Sections 180-6 of the Zoning Law of the Village of Pittsford to permit construction of a swimming pool with a 4ft rear setback when a 10ft setback is required; 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)(17).

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 has weighed the effects of the requested variance on the health, safety, welfare of the neighborhood and community and made the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood or detriment to nearby properties in that:
Drainage and screening have been considered in the design. The pool will be minimally visible from adjacent properties. Storm water will not run off onto adjacent properties. The swimming pool code requires a fence be maintained around the pool and it will have locked gates.
2. The benefits sought by the applicant **cannot** be achieved by some other feasible method because:
The backyard is small, the pool is very small, and complying with the 10-foot setback is not feasible.
3. The requested variance **is** substantial in that:
The variance request of a 4-foot setback, when a 10-foot setback is substantial, but it is not introducing significant adverse impacts.
4. The proposed variance **will not** have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district because:
Drainage and screening have been considered in the design. The pool will be minimally visible from adjacent properties. Storm water will not run off onto adjacent properties. The swimming pool code requires a fence be maintained around the pool and it will have locked gates.
5. The alleged difficulty **is** self-created because:
The need for a pool is self-created, but that does not preclude granting an area variance.
6. The Variance **is** the minimum necessary to provide relief because:
Moving the pool closer to the house could adversely impact the foundation of the house.
7. The following physical characteristics of the property are relevant to this variance request:
The backyard is very small and presents very few options for installation.

8. The following additional findings are noted:

The building inspector has determined that the in-ground therapy spa meets the definition of a swimming pool so Village Code section 180 applies to this action. This section of Code requires maintaining a fence around the pool.

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:

	Yes	No	Abstain
Justin Vlietstra	x		
Susan Lhota	x		
JoAnne Shannon	x		

Dated: May 1, 2019

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

Motion: Member Lhota made a motion, seconded by Member Shannon, to adjourn the meeting at 7:00 pm.
Vote: Shannon - yes; Vlietstra – yes; Lhota-yes. Motion carried.