

**VILLAGE OF PITTSFORD  
PLANNING AND ZONING BOARD OF APPEALS  
REGULAR MEETING**

Wednesday, May 04, 2022 @ 6:30 PM

**PRESENT:**

**Chairperson:** Justin Vlietstra  
**Members:** Jo Anne Shannon  
Susan Lhota  
David Marshall  
Stacey Freed (alternate)

**Absent:** John Kitchura

**Attorney:** Mindy Zoghlin  
**Recording Secretary:** Kristen Kreiser

**CALL TO ORDER –**

**Motion by Chairperson Vlietstra, and seconded by Member Marshall**, to call the meeting to order.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

**50 State Street – Temporary Use Permit \*Information only\***

**Present:** N/A

It was decided that the application for Copper Leaf Brewing, LLC will be suspended until the next regular PZBA meeting which will be held on June 1<sup>st</sup>, 2022. The initial application was incomplete and there were some amendments that needed to be made. The applicant was notified by the building inspector prior to the meeting. This item has been removed from the agenda and there will be no substantial discussion.

**71 State Street – Addition – Area variance & set back variance**

**Present:** Bob Michaels

Area variance and setback variance are on the agenda to construct a new addition. The question was brought up if the property was a corner lot, side yard, or back yard. The building inspector confirmed the addition is in the backyard and the setback to the neighbors he is requesting works either way for the zoning district.

Chairperson Vlietstra, indicated the applicant Bob Michaels is familiar with the process and submitted an application with a description of the 5 criteria that must be considered by the Board for an area variance. He also explained the standards

of review and that the board must consider the 5 criteria of an area variance, but the applicant does not have to comply with all 5 of the criteria. Ultimately the board is looking at

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doing a balancing test to consider the benefit to the applicant versus possible adverse impacts on the community.

Chairperson Vlietstra, went over the different actions that would be taking place during the meeting and when they would be taking place and introduced the applicant, Bob Michaels.

The applicant informed the board of the difficulties having bedrooms and bathrooms on the second floor of the household. The application is to allow a one-story bedroom with a bathroom addition to the rear of the house. The applicant informed the board that his house like the majority of others in the Village was not built with the concept of Aging in Place as part of the layout. The homes were typically built with bedrooms and bathrooms on the second floor and the only access is by means of steep stairs.

The applicant provided a letter to the board regarding his proposal that was signed and dated by 10 neighbors that supported his application for an addition. The applicant wanted to make sure his neighbors felt comfortable with the project.

The application is for two area variances: rear setback and lot coverage. The applicant stated the project has been carefully reviewed by himself and the Building Inspector and his home meets all other zoning requirements to allow the rear one-story bedroom addition.

The applicant is requesting a 26.85' rear setback in lieu of 30' which amounts to a 38" variance for the rear setback.

The applicant is requesting 37% lot coverage in lieu of 25%. The applicant shared public information that was obtained from the Village Office regarding 9 of the neighboring properties on this section of State St., the lot coverages range from 32% to 47.6% and the average lot coverage based on the aforesaid 9 properties in the immediate State St. neighborhood is a little greater than 39%. In comparison, the applicant is seeking a 37% lot coverage, well within the compatibility of the neighborhood.

The addition of the property requires the removal of the existing patio which is approximately the same square footage as the addition, so there should be no increase in impervious area.

The applicant provided information for the 1 exterior light on the backside of the house. The light is a downlight Dark Sky compliant light and will be placed next to the exterior double door of the bedroom.

The applicant and building inspector confirmed all drainage from the addition will be handled onsite and will not affect any neighbors and there will be no undo light glare from the exterior light fixture.

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Member Marshall was looking for clarification on calculations and had a procedural question regarding the patio footprint not having an area variance in the past and how they should be judging the patio. Member Marshall suggested having the numbers exclude the patio to what it would be including the addition.

The building inspector confirmed the figures on the PZBA application were the correct figures.

Member Marshall brought up the point that with New York State Law one of the things they say is that even small nuanced differences between area variances can suggest precedent is not in fact a set reason. He referenced a previous lot coverage variance application on Maple St. where a property was 33% to 37% lot coverage, very similar in percentages, however, it was a larger two-story structure and the neighborhood was uniquely different, but it was not necessarily up to the PZBA to judge. The ZBA asked the HPB for advice and they were asked to weigh in on three things the first being build, bulk size, and scale. The second being compatibility with neighboring properties and the third to comment on the viewshed. Member Marshall was bringing up this point to determine in the future if HPB should be involved in the granting of an area variance.

The building inspector confirmed that the addition will be reviewed by the HPB.

Chairperson Vlietstra commented that each application should be evaluated on its merits and the five criteria, lot coverage, and setbacks. They are all over the map all over the village and it makes sense to evaluate how this work in the immediate context around the property.

The building inspector confirmed again the figures on the PZBA application were the correct figures based on a tape map and GPS coordinates, it was also confirmed the instrumental outline was 26 feet.

**Motion by Chairperson Vlietstra, and seconded by Member Lhota**, to open a public hearing for both area variance applications.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

## **PUBLIC COMMENT**

### **John Limbeck – 72 State Street**

Mr. Limbeck stated he would like to endorse Mr. Michael's area variances application, and he heartily recommended the board's approval. Mr. Limbeck stated the proposed addition would fit perfectly within the neighborhood and he is aware of other properties Mr. Michael's owns so he knows the addition will be scrupulously constructed and maintained meticulously.

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Mr. Limbeck is excited and honored to welcome Mr. Michael's brother into the community.

**Art Pires – 70 State Street**

Mr. Pires stated Mr. Michael's presented one tremendous, comprehensive, eloquent presentation covering all the points. He stated Bob is a long-time neighbor and resident of the village, and it's admirable that the addition that is being proposed is to care for his brother in his home long-term. Mr. Pires discussed the craftsmanship and the superior design of his proposed addition and how it will enhance the neighborhood, as well as keep a very respectable and well-admired resident in the village. Mr. Pires strongly encourages the board to grant the variances.

Chairperson Vlietstra inquired with PZBA secretary whether any letters or comments were received by the Village office regarding the proposed addition. It was confirmed the only information received at the Village office was from the applicant himself. Chairperson Vlietstra asked for some clarification from attorney Zoghlin, regarding the applicant screen sharing new information and whether that was adequate.

Attorney Zoghlin confirmed the screen share was adequate as long as the originals were filed with the Village office.

**Motion by Chairperson Vlietstra, and seconded by Member Marshall**, to close the public hearing for both area variance applications.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

Chairperson Vlietstra brought up the comprehensive plan and it being a goal to increase the diversity of housing, and some of these age and place concepts. There was a brief discussion about the two pages that were referenced pages 33 & 34.

The Board reviewed the draft resolutions and discussed findings.

**Motion by Chairperson Vlietstra, and seconded by Member Marshall**, to adopt the resolution (2022-3) approving an area variance for lot coverage for a home addition.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

*[Note: a copy of the resolution is at the end of these minutes].*

**Motion by Chairperson Vlietstra, and seconded by Member Lhota**, to adopt the resolution (2022-4) approving an area variance for setbacks for a home addition.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

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*[Note: a copy of the resolution is at the end of these minutes].*

**CONFLICTS OF INTEREST DISCLOSURE –**

Board Members indicated that they had no conflicts of interest to disclose.

**MEMBER ITEMS -**

Board discussed changes to New York State open meeting law and how that applies to minutes and how quickly they need to be released. There is no change in the timeframe of posting meeting minutes, if it is posted on the website that counts as meeting all requirements. There are other substantive changes that have to do with how you can conduct remote meetings after June 4<sup>th</sup>. The virtual component will be a lot different and there is still a lot of clarification needed. The Village Board may have to adopt a local law to address virtual meetings moving forward.

The Board agreed to have the June meeting in person.

Board continued to discuss minutes and the time frame of when they have to be posted and how thorough they can be. It was explained that minutes are foible in draft form without board approval. Minutes have not been getting posted on the website until they are approved by the board to avoid confusion. The clerk has at least 14 days to have a set of draft minutes available. It was brought up that the public can also view or hear the meeting online within 48 hours of the meeting.

Chairperson Vlietstra mentioned that in the past the draft minutes were posted with the packet on the website and he preferred that. The clerk explained she does two packets for the Trustees: one packet to the board including draft minutes and one packet to the website that does not include the draft minutes. The reason for not including the draft minutes is to alleviate any confusion that may occur if the clerk has misinterpreted or did not accurately reflect something correctly, there is an opportunity to catch it. Once the minutes are approved and looked over by the board the minutes will be posted on the website for the public to view and the draft minutes are always foible.

Board members agreed to use the practice of two meeting packets.

**MEETING MINUTES -**

**Motion by Member Marshall, and seconded by Member Lhota**, to approve the meeting minutes for September 20, 2021, as amended.

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**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – abstain. *Motion Carried.*

**Motion by Chairperson Vlietstra, and seconded by Member Lhota,** to approve the meeting minutes for September 29, 2021.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – abstain. *Motion Carried.*

**Motion by Member Marshall, and seconded by Member Shannon,** to approve the meeting minutes for November 15, 2021, as amended.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – abstain. *Motion Carried.*

**Motion by Member Marshall, and seconded by Member Lhota,** to approve the meeting minutes for December 15, 2021, as amended.

**Vote:** Vlietstra – abstain; Shannon – yes; Lhota – yes; Marshall – yes; Freed – abstain. *Motion Carried.*

**Motion by Member Marshall, and seconded by Member Lhota,** to approve the meeting minutes for January 13, 2022, as amended.

**Vote:** Vlietstra – abstain; Shannon – yes; Lhota – yes; Marshall – yes; Freed – abstain. *Motion Carried.*

**Motion by Member Marshall, and seconded by Member Lhota,** to close the PZBA meeting for May 4<sup>th</sup>, 2022.

**Vote:** Vlietstra – yes; Shannon – yes; Lhota – yes; Marshall – yes; Freed – yes. *Motion Carried.*

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Kristen Kreiser, Recording Secretary







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**RESOLUTION 2022-4**

**DECISION ON AREA VARIANCE**

**Project:** Home Addition

**Date:** 5-4-2022

**Applicant Name:** Robert Michaels

**Address:** 71 State St.

Pittsford, NY 14534

**Action:** Construct a rear home addition.

At a meeting of the Zoning Board of Appeals of the Village of Pittsford (the “Board”) duly convened on May 4, 2022, at 6:30 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 David Marshall, to wit:

**WHEREAS**, The above-named applicant for an Area Variance of Sections **210-20.5** of the Zoning Law of the Village of Pittsford to permit construction of home addition that will result in a rear setback of approximately 26ft when 30ft 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 an 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)(11) or 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, and 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:

Owners of nearby properties have warmly supported this application as evidenced by the letter signed by 10 of the 18 neighbors that viewed the plans. Also attesting to the answer herein is the fact that the rear setback variance could probably be considered "de minimis," meaning that the 38 inches are so small on the 150' deep lot that it may lack significance. Further, the lot coverage variance is very compatible, and even 2% smaller than the average lot coverage of 10 of the 18 houses in the immediate neighborhood. Therefore, there will be no change to the character of the neighborhood and there will be no detriment to nearby properties because the 2 variances are actually compatible and reflective of the neighborhood. Also, there will be no detriment to nearby properties as the drainage plan uses the existing drywell for the gutters/downspouts. The addition will have the same style wood windows and exterior doors, same roofing, same siding exposure, and the same colors as the existing house. The addition will be delineated from the existing with a lower roof line and stepped back side walls from the existing.

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

Significantly shrinking this to comply with the setback requirements will make the benefit nearly impossible. It would be a non-functional addition for the intended purpose.

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

It is only a 3ft difference from the required rear setback on a 150ft deep lot. The location has lots of lawn and grass and is well-drained. There is also an elevation difference which creates a visual gap between the property lines.

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- D. The proposed variance **will not** have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district because:

Owners of nearby properties have warmly supported this application as evidenced by the letter signed by 10 of the 18 neighbors that viewed the plans. Also attesting to the answer herein is the fact that the rear setback variance could probably be considered "de minimis," meaning that the 38 inches are so small on the 150' deep lot that it may lack significance. Further, the lot coverage variance is very compatible, and even 2% smaller than the average lot coverage of 10 of the 18 houses in the immediate

neighborhood. Therefore, there will be no change to the character of the neighborhood and there will be no detriment to nearby properties because the 2 variances are actually compatible and reflective of the neighborhood. Also, there will be no detriment to nearby properties as the drainage plan uses the existing drywell for the gutters/downspouts. The addition will have the same style wood windows and exterior doors, same roofing, same siding exposure, and the same colors as the existing house. The addition will be delineated from the existing with a lower roof line and stepped back side walls from the existing. Drainage and lighting have been addressed and will not cause any adverse impacts.

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

The desire for the addition is self-created but this alone does not preclude granting an area variance.

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

The applicant looked at various alternatives and this was a fairly modest addition. Creating a smaller addition would not substantially lessen the impacts. The bedroom and bathroom is about 400 square feet, a type of living space with less square footage do not seem reasonable.

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G. The following physical characteristics of the property are relevant to this variance request:

Lot coverage is consistent with the neighborhood. The addition is secondary to the primary structure, there is a nice stepping nature to the building size as it goes from the main house to the connected garage to this addition. The slight elevation and drop in the roofline delineates it from the existing house. The setback request is parallel to the opening of the garage base for the neighboring property.

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H. The following additional findings are noted:

The comprehensive plan has encouraged developing a diversity of housing options in the village including support for accessory dwelling units which is consistent with the aging in place concept.

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

1. HPB approval of a certificate of appropriateness for the action as presented to the Zoning Board of Appeals if the Building Inspector determines HPB review is required.

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

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>
Justin Vlietstra	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stacey Freed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Lhota	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dave Marshall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JoAnne Shannon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Dated: 5-4-2022**

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

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Justin Vlietstra, Chairperson  
Zoning Board of Appeals