

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting: June 15, 2020 at 6:30 PM

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Justin Leitgeb
David Marshall
Susan Lhota

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

Chairperson Vlietstra made the following announcements:

This meeting is being conducted online, per orders of the Governor, in response to the state's response to COVID-19. We are video conferencing instead of meeting in person. The other announcement is that there is a published public hearing for Lock 32 for a temporary permit for outdoor seating. The public hearing is being removed from the agenda because the permit was already granted administratively due to new policies that were adopted by the village last week.

Motion: Member Vlietstra made a motion, seconded by Member Leitgeb, to open the meeting at 6:30 pm.

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

ACTIVE TRANSPORTATION PLAN (ATP)

Member Lhota asked Ms. Plummer whether the Active Transportation Plan was in final form at this point or whether it can still be modified. Ms. Plummer stated that the plan is close to being in its final form, but it is still possible to make minor changes. There will be no major revisions made to the plan at this point. She also stated that it was her understanding that they are prioritizing the village segment of the plan. Member Lhota suggested that the LWRP and the current Comprehensive Plan be referenced in the documents that are cited in the Plan. Ms. Plummer stated that those are really good points, and she will ask the consultant to make these additions to the Plan. Board members set a tentative schedule to review the Plan.

GEORGE FLOYD PROCLAMATION

Member Leitgeb stated that because of the events that have occurred over the last several weeks, he has written a short statement for board members to review. Member Marshall expressed his approval of the proclamation and thanked Member Leitgeb for giving him the opportunity to review it. Member Lhota stated that she had also reviewed the statement and expressed her approval.

Member Leitgeb read the proclamation:

We have all observed the brutal acts against black individuals including George Floyd, which reflect deeply-seated racism in our society. As members of the Planning and Zoning Board of Appeals in the Village of Pittsford, we want to reflect on our role and responsibility for fostering more equitable communities. Planning is not a neutral activity. Those involved in Planning make decisions that increase or reduce equity in communities that have been heavily marked by a history of segregation and discrimination. We believe it is important that members of planning boards recognize this history, and their part in shaping the communities that we live in today. We mourn the unjust loss of lives, including that of George Floyd and others, and the loss of opportunities caused by systemic inequity. The Planning and Zoning Board of Appeals in the Village of Pittsford is committed to listening and learning from the voices of our wider community, so that we can foster more inclusive communities in the future.

Motion: Member Leitgeb made a motion, seconded by Member Lhota, to adopt the statement regarding George Floyd and incorporate it into the minutes of this meeting.

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

TEMPORARY PERMITS

Member Vlietstra stated that the next item on the agenda is discussing the temporary permit code. He suggested that the Board not hear temporary permits in the residential district on properties that contain dwellings, but that the board should review ones that are for institutional uses. He further stated a concern that the Zoning Board of Appeals could hear a request for a permit for something that sounds innocuous, but then, over time, transitions into something more intrusive.

Ms. Zoghlin stated that if someone is going to do a use that is not permitted in the district, he or she should obtain a use variance and be held to the very high standards that use variances require. When there is a temporary permit that goes on for nine months and can be renewed over and over again, it's not that temporary. She stated that in her opinion, it looks like a way to circumvent the use restrictions in various zoning districts. There could be ways to manage the issue. One way would be to restrict the ability to grant temporary permits to zoning districts that are going to suffer fewer consequences if there is a bad use; keep the temporary permits out of residential districts. Another way would be to give the Zoning Board or the Code Enforcement Officer the ability to revoke a temporary permit, but then you need to be fairly specific about the conditions that have to be satisfied before you can revoke a permit to do something that you've already granted permission to do. And then the third issue that the Board has spoken about is what criteria are the board to apply in evaluating an application for the temporary permit. The initial zoning code didn't have any criteria involved; it just gave the Board discretion to do whatever they thought was right, applying whatever criteria they thought were appropriate. Since this is something that looks like it could possibly cross the line between an unpermitted, true nonconforming use, and a use variance, there should be criteria that are objective and can be measured, and that the applicant has to establish for the Board to evaluate them.

Member Marshall questioned whether there are possibilities where a shorter-term temporary use, maybe a week or two weekends, might have value for the community. For example, a graduation party

in a residential neighborhood that wants to have a food truck. Ms. Zoghlin stated that these types of uses recur with sufficient frequency that a better way to deal with them might be to have code provisions about trucks, or about block parties. Member Lhota stated that the application requirements include the duration of the event and other details. It's difficult to anticipate everything, so she would like to see application requirements be much tighter. Also, some of the unintended consequences might be a matter of compliance that the Building Inspector could take care of.

Member Vlietstra stated that he could provide additional background that addresses some of the comments that were raised. If someone wants to have a food truck at their birthday party, that is generally a one-day thing. Many of these things would normally be incidental to the primary use, which is a residential property. Things that are done on streets and sidewalks are not residential property, it's the municipal right of way, and the trustees have permits they grant for that.

Member Vlietstra stated that when going before the Town of Pittsford, the temporary permits are administratively handled by the Director of Public Works and the Fire Marshal. And they have a list of requirements that they want you to comply with. If you have an activity, you have to follow these requirements. For larger things that the Board has reviewed, like the Farmer's Market, it make sense to put out a mailer to the adjacent neighbors indicating that there's a public hearing, and if they have concerns about it, they can come in and comment.

Member Vlietstra stated that there is a balance where if it's a short duration and not potentially impactful, then it's a ministerial decision, something that's delegated to the Building Inspector. Otherwise, if it's longer term, then it goes to the Board and in front of the regular review process for institutional properties.

Member Marshall stated that he is concerned that if we eliminate the possibility of review, we could be disallowing something reasonable. If we receive a bunch of unreasonable applications, we just may have to issue a bunch of denials.

MINUTES

Motion: Member Vlietstra made a motion, seconded by Member Shannon, to approve the February 24, 2020 meeting minutes.

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

Motion: Member Vlietstra made a motion, seconded by Member Shannon, to adjourn the meeting at 7:30 pm.

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

Linda Habeeb, Recording Secretary

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