

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting: November 16, 2020 at 6:00 PM

PRESENT:

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

Attorney: Mindy Zoghlin
Recording Secretary: Linda Habeeb

Motion: Chairperson Vlietstra made a motion, seconded by Member Leitgeb, to close the workshop meeting and call the regular meeting to order at 6:30 pm, noting that all five members of the Planning Board are present.

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

Chairperson Vlietstra stated that pursuant to Governor Cuomo’s recent Executive Orders, this meeting is being conducted online in response to the state's response to COVID-19. We are video conferencing instead of meeting in person. Meeting notice is posted on the village website, which includes a link to this meeting, so any member of the public can participate in this meeting and observe the discussions.

Conflict of interest disclosure: None of the Board Members had a conflict of interest to disclose.

Jonathan Murray, 29 South Street ~ Area variance

Present: Jonathan & Caroline Murray, Homeowners

Discussion: Member Vlietstra stated that this is an application for an area variance for construction of a two-story addition on the house located at 29 South Street. He explained that in addition to the variance, for a side setback there are 2 other Code issues with the application. The applicants’ lot is smaller than the minimum size allowed by Code, and the impervious surface exceeds the maximum 25 percent requirement in the Code. The lot was created before the zoning code and the application does not propose changing the lot size so no action is needed. Exceeding the impervious surface limit will require that the applicants request another variance. He further explained that as the paved area on a lot increases, it becomes more challenging to figure out where to put the stormwater, so the applicants need to have a drainage plan for that. The applicants’ architect, Mr. Burrows, stated that it will be a matter of directing downspouts off of the roof, and grading the site, as needed, to make sure that all the runoff stays on the site and not onto the neighbor's property. If that doesn’t work, a dry well would be an option. He asked if there are stormwater drains on the street that can be used. The Building Inspector stated that he is unsure of stormwater drains in the street but will work with the applicants and their architect on a drainage plan.

Member Vlietstra also pointed out that the square footage of the addition exceeds 400 square feet, and therefore, site plan review will also be required. The applicants stated that the addition will be consistent

with the style of the house and other houses on the street. Member Vlietstra stated that this will need to be reviewed by the Historic Preservation Board as well.

Member Vlietstra explained that the applicants are requesting an eight-foot setback where ten is required. The existing house is a slightly over eight feet from the property line now. Board members expressed that it is common in the Village for residents to have older properties with various deviations in the setbacks. Mr. Lauth pointed out that the setback is preexisting, and they aren't making it worse than the house that's already existing. Member Leitgeb commented that the addition will be adjacent to the neighbors' detached garage, so it will only obscure views of that garage and the neighbors back yard. Member Marshall stated that it looks like the addition will be leveling the grade of the back lawn to flatten it out. Mr. Murray said the grade is fairly flat where the addition is, and then it comes up another foot where it gets to the edge of the driveway, and there is a retaining wall where the driveway steps up quite a bit. Ms. Zoghlin requested that the architect show the location of the retaining wall and any downspouts in the revised site plan. Member Vlietstra commented that the Murrays' yard slopes down toward South Street, so the front of the house is lower than the back of the house.

Member Lhota asked if there will be a light over the rear entrance, which could impact their neighbor on Maple Street. Mr. Murray pointed out that that shouldn't be an issue because there is a significant grade change going up Maple Street, and they don't have any windows on that side of their house. Member Vlietstra explained that what the Village typically looks for in lights is that they comply with Code and in a normal color, which is usually 2700 to 3000 Kelvin, which is a standard incandescent light bulb color. The brightness, per Code, needs to be about 75 watts from a single bulb, with a full shield around it, so the bulb is not directly visible and the light goes down onto the ground, not out onto your neighbor's yard.

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

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

- **Motion:** Chairperson Vlietstra made a motion, seconded by Member Shannon, to leave the public hearing open and continue discussion of this at the next regular meeting on December 16th.

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

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### **Jennifer Collins, 8-10 Schoen Place ~ Pavilion**

**Present:** Jennifer Collins, Business owner

**Discussion:** Ms. Collins stated that in May of this year, she proposed, and the Village Trustees approved, a shared seating area between Aladdin's and Lock 32 to be utilized by those two businesses, as well as Simply Crepes and the Coal Tower. Since that time, there has been this shared eating area, the impetus was the COVID-19 virus and finding a way where people could enjoy the restaurants and the canal. She stated that the feedback has been excellent from patrons. She then appeared before the Trustees to request that it be extended beyond October. At that time, Ms. Collins suggested the possibility of installing a pavilion, with plastic sides, for use during the colder months. The Trustees explained the required approvals that would be needed from both the Planning Board, as well as the Historic Preservation Board. She further explained that Mayor Corby and the Building Inspector met with her on site and

provided some input as to what the design would need to include. She stated that she has hired an architect who developed the plan for the pavilion. One of the biggest considerations was to keep the design consistent with the existing pavilion. The design also includes extending the patio area around it and finishing it off. It is currently pavement that had previously been parking. She is proposing a concrete patio area and a fire structure or a gas fire pit, and landscaping.

Member Vlietstra stated that this is an accessory structure that is being constructed for use by multiple properties. It was noted that Aladdin's, Simply Crepes, and Lock 32 are not included in the Tavern Overlay District. The Building Inspector stated that he will raise the issue of expanding the Tavern Overlay District to include these businesses with the Trustees. In the meantime, Ms. Collins could request a temporary use permit for the pavilion from the Zoning Board. Member Vlietstra stated that modifying the zoning map would be a very easy solution, and then there would be no zoning issues with regard to use. The Building Inspector pointed out that there is a temporary law on the books to allow restaurants and bars to have outdoor seating, which was expanded until April 2021. Lock 32 is not increasing the intensity of their use because they are not at full occupancy indoors. So basically, they're taking existing indoor capacity and moving it outdoors; it's just changing where they're located on a temporary basis.

Member Marshall referred to Village Code 210-24.4. "Accessory uses and structures are allowed in any zoning district in connection with the principal use lawfully existing within such district as noted in these use tables." He stated that that suggests that use and structures are allowed in any zoning district in connection with any principal use lawfully existing. Therefore, the applicant needs a use variance. Ms. Zoghlin pointed out that the criteria for a use variance are difficult to meet. The applicant would have to demonstrate unnecessary financial hardship with dollars and cents proof. It's a very high burden. Amending the zoning code to add the property to the Tavern Overlay District would also remedy the problem.

Ms. Zoghlin stated that if this is going to be an accessory structure to a principal use that does not involve the sale or consumption of alcohol, they could probably have it where people are allowed to sit, eat, but can't drink, until the Tavern Overlay District is expanded. Ms. Zoghlin also pointed out that the structure will need site plan review. She further stated that if the Trustees do not voluntarily amend the zoning code, the applicant can formally apply to request a zoning code change.

Member Vlietstra questioned the applicant regarding installing a temporary tent during the winter until the pavilion can be constructed and installed. Ms. Collins explained that after doing some research, she found that to get something that is advisable to have during a Rochester winter, with heavy rain and snow, would create a financial burden, as renting a tent is very expensive. Member Vlietstra asked Ms. Collins when the pavilion is planned to be constructed. She stated that the pavilion will be constructed in the spring.

### **Active Transportation Plan: SEQR**

**Motion:** Member Vlietstra made a motion, seconded by Member Leitgeb, to authorize Member Shannon to sign the lead agency letter for SEQR stating that the PZBA has no objections to the Town Board and Village Board of Trustees being named as lead agency for SEQR.

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

**Motion:** Member Vlietstra made a motion, seconded by Member Marshall, to authorize Member Leitgeb to sign the letter on behalf of the Planning Board to submit regarding the Active Transportation Plan.

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

**Motion:** Member Vlietstra made a motion, seconded by Member Shannon, to leave the public hearing open and continue discussion of the subdivision resolution at the next regular meeting on December 16th.

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

**Motion:** Member Vlietstra made a motion, seconded by Member Lhota, to adjourn the meeting at 8:30 pm.

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

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Linda Habeeb, Recording Secretary