

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

Special Meeting: Wednesday, September 1, 2021

**PRESENT:**

|                             |   |
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| <b>Chairperson:</b>         | Justin Vlietstra  |
| <b>Members:</b>             | Jo Anne Shannon<br>David Marshall<br>Susan Lhota<br>John Kitchura |
| <b>Attorney:</b>            | Mindy Zoghlin   |
| <b>Recording Secretary:</b> | Marina Pacheco-Walker   |

**Motion by Chairperson Vlietstra, and seconded by Member Lhota,** to call the Special Meeting to order, noting that all five members of the PZBA are present.

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

**CONFLICTS OF INTEREST DISCLOSURE**

Board members indicated that they had no conflicts of interest to report.

**CANAL CORPORATION ENVIRONMENTAL REVIEW**

Chairperson Vlietstra explained that The New York State Canal Corporation (“Canal Corp.”) has advertised a request for public comment on their Draft Environmental Impact Statement and draft Embankment Maintenance Guidebook. The deadline for comments was extended to October 15. He further explained that no formal vote will be taken by the Board at this meeting.

Attorney Zoghlin advised that the Board should have a short public conversation and further discuss possible actions in an attorney-client session.

Attorney Zoghlin provided the background of the situation. In 2018 the Canal Corp. began clear cutting along the canal path in what was described as “routine maintenance”. The Town of Pittsford and the Town of Perinton began a lawsuit against the Canal Corp. on the grounds that they had not fulfilled SEQR requirements. The Judge in that matter determined that the action was a Type 1 action requiring an environmental review because it involved clearing 10+ acres of land and enjoined the Canal Corp. from clear cutting until SEQR was completed. Shortly after, the Canal Corp. adopted their “Embankment Inspection Maintenance Guide Book” referring to the guide as a plan for their action and stated that the guide would be used to determine how much to clear cut and where. In the SEQR process, The Canal Corp. submitted a Generic Environmental Impact Statement (GEIS) and took the position that none of the localities along the canal have the authority to take part in the decision making. The Town of Pittsford has been following the action and wrote a letter to the Canal Corp. regarding the environmental review. Allegedly, the letter cited that there is no history of trees ever causing embankment failures along

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the canal and also noted that the Canal Corp. was utilizing western policies on dams and attempting to tailor them to this circumstance for canals. The letter went onto say that canals cannot be regulated as dams. Allegedly, the letter also noted that pursuant to SEQR a “no-action alternative” is required. Allegedly, the Canal Corp.’s position is that if no action is taken then there will be catastrophic failures across the state, the Town attorney noted that there has never been a catastrophic failure of an embankment before.

Chairperson Vlietstra noted that in the Canal Corp.’s draft GEIS, pages 1-4, they had identified all potential involved and interested agencies and sent out notice. He is unaware of any notice being submitted to the Village of Pittsford. Board members were unsure how the Canal Corp. determined who was interested or involved and were unsure what Towns and Villages other than Pittsford and Perinton had been notified.

**Motion by Chairperson Vlietstra, and seconded by Member Marshall**, to adjourn the meeting at this time and enter into attorney-client session.

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

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Marina Pacheco-Walker, Recording Secretary