

**Members Present:**

Matthew W. Griffo, Chair  
Susan Richardson  
Dori Farthing  
David Woods  
Claren Kruppner

**Other Village Representatives Present:**

Code Enforcement Officer Ron Maxwell  
Attorney J. Thomas Reynolds

**Applicants Present:**

Attorney Eric M. Dolan – 18 Wadsworth Street – Paul & Jennifer Dotterweich  
Paul Dotterweich – 18 Wadsworth Street  
Eric Schaff – Marathon Engineering – ESL  
Joseph Burkhart – NPV Inc. – ESL  
Kristin Swanson – Body & Face by Kristin – 58 Main Street  
Rob Bills – Forever Art II – 8 ½ Center Street  
Kevin VanAllen – Attorneys Cannon & Van Allen, LLP – 10 University Drive

**Public Present:**

Nick Podhorecki – Boy Scout

**1. Meeting Opened:**

Acting Chair S. Richardson opened the meeting at 3:55pm.

**2. Meeting Minutes**

The April 13, 2011 regular meeting minutes were reviewed. C. Kruppner moved to approve the minutes as amended. D. Farthing seconded the motion and the motion passed with ayes from all.

**3. Code Enforcement Office Report:**

**April 2011**

Building Permits:	4
Zoning/Sign Permits:	2

CEO Maxwell updated the Board on a letter that his office sent to Corrin Strong on April 26, 2011 regarding Mr. Strong's plans to hold weddings and other outdoor events starting in June in conjunction with the Genesee Volley Tennis Club and Hartford House. The letter advised Mr. Strong that the special use permit that he was granted for the Genesee Volley Tennis Club did not include these types of events.

Mr. Strong replied with a letter dated May 5, 2011 concerning the legality of weddings at the Hartford House that Attorney Reynolds has reviewed. In return Attorney Reynolds assisted the Code Enforcement Office in drafting a response letter to Mr. Strong dated May 12, 2011 stating that the zoning for his parcel(s) does not permit its use for weddings. It also stated that what Mr. Strong is proposing is beyond the uses allowed under the Special Use Permit and beyond the scope of a Bed & Breakfast per Village Code.

CEO Maxwell reported that the Hampton Inn is completed except for the site. The Village is still holding a Letter of Credit until that work is completed.

#### **4. Town Planning Board Update – David Woods:**

D. Woods updated the Board on Town Planning Board activities.

He reported that Roy Teitsworth from the Genesee Country Christian School spoke to the Board regarding the special use permit the school was granted for the Wind Tamer unit. The Town Planning Board had approved the special use permit for five years, but Mr. Teitsworth is requesting that the special use permit be amended with no time limit. No action was taken, but the Town Planning Board did set up a public hearing for this request for June 13<sup>th</sup>.

#### **5. Dotterweich – 18 Wadsworth Street – Special Use Permit Request - Single Family to Two Family:**

Attorney Eric Dolan appeared before the Board on behalf of Paul & Jennifer Dotterweich. Mr. Dotterweich was also present. Attorney Dolan is asking that the special use permit application be granted based on the supporting documentation he had previously supplied to the Board, with the understanding that a public hearing must take place first, therefore is requesting that the Board set date and time for that hearing.

Attorney Dolan continued by stating that the house is currently a single-family residence in an area that is zoned for two-family residences.

D. Woods stated that Village Code Section 130-20 D (1) refers to Special Use Permits and states the following: “130-20 D.

- (1) *The Planning Board will hear and decide upon application for such permits as specified in this chapter. A permit for any special use shall be granted only if evidence is presented which establishes that:*
  - (a) *The proposed building or use will be in harmony with the general purpose, goals, objectives and standards of the Village's long-term planning goals and this chapter.*
  - (b) *The proposed building, hours of operation, use, or intensity of operation involved will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.*
  - (c) *The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with or devalue the development and use of neighboring property in accordance with the applicable district regulations.*
  - (d) *The proposed building or use will be adequately served by essential public facilities and services.*
  - (e) *The proposed building or use complies with all additional standards imposed on it by the particular provision of this chapter authorizing such use.*
  - (f) *All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping and screening.*
  - (g) *Where requested, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the special use permit.*
  - (h) *In the review and approval of special use permits, the following additional factors shall be considered:*
    - [1] *General conformance with the Village of Genesee Comprehensive Plan and its long-term planning goals and guidelines for development associated with them.*
    - [2] *Consistency with development standards and guidelines of the zoning district in which it is located.*
    - [3] *Criteria for the review of site plans enumerated in Article XIV of this chapter.”*

D. Woods stated that another factor that needs to be discussed is whether or not the State Environmental Quality Review (SEQR) Short Environment Assessment Form is sufficient or if a SEQR Full Environmental Assessment Form will be required noting that a couple of questions on Part II of the short form may need to be answered yes. Discussion continued and Attorney Dolan asked that the Planning Board take into consideration that this is not a use variance request but a Special Use Permit request for an allowed use in this Zoning District. Attorney Dolan also asked why the Planning Board is considering a full assessment form this time around when it was not required when Mr. Curry had applied for the special use permit. D. Woods explained that since approval was not given last time, it did not seem that the applicant should have to go through the longer process of a full assessment, and at this time, there is no indication whether this application will be approved or denied.

Chair M. Griffo Chair entered at 4:39pm and Acting Chair S. Richardson brought Chair Griffo up to speed on the meetings progress so far.

Chair Griffo asked what the next step was. Attorney J. Thomas Reynolds stated that the Planning Board should act on this application within 62 days of receiving the application, therefore, the Planning Board should hold a public hearing as soon as possible prior to June 14<sup>th</sup>. Discussion continued noting that there may not be enough time to schedule and hold a public hearing prior to the 14<sup>th</sup>, which would possibly mean automatic approval of the application.

The Board asked Attorney Dolan if he and his client would be willing to extend the 62 day requirement if the Board agreed to hold a public hearing at the next regularly scheduled meeting scheduled for Wednesday, June 22<sup>nd</sup>. Attorney Dolan consulted with his client and they agreed to the extension. Therefore, the Planning Board scheduled a public hearing for Wednesday, June 22, 2011 at 4:30pm.

Discussion followed and there was some discussion as to why this application was different than the prior application. It was noted that the previous application was from a potential buyer who planned to rent to college students. In this case, the application is from the owner, who is not necessarily going to sell to someone that is not going to live there. Chair Griffo stated that the Planning Board couldn't discriminate against student rentals and non-student rentals.

D. Woods noted that most of the special use permits the Planning Board grants are granted with a time limit and wonders if the applicant was aware of this. Attorney Dolan stated that this had not been considered, but does not believe that this type of special use permit lends itself to a time limit.

Discussion continued regarding the possible need for a full environmental assessment form. Attorney Dolan asked that the Board make a decision whether the full environmental assessment form would be required or if the short form would work. S. Richardson wondered if the Board decided to use the full environmental assessment form would they need to send out involved and interested party letters and wait the thirty days. D. Woods stated that this would probably not be considered that type of application, therefore those letters would not need to be sent out and the Board would not have to wait the thirty days.

Paul Dotterweich stated that he is not trying to rent to students but wishes to make the house marketable to sell it, but does not plan to change the property in any way. He continued by stating that if it does not sell, he will need to rent it.

Chair Griffo asked Attorney Dolan how the case law that has been sighted in the application relates specifically to this special use permit request to turn a single-family residence into a two-family residence. Attorney Dolan stated that the case laws sighted that the proposed uses were consistent with the surrounding area.

D. Woods noted that in reviewing the short form SEQR form, "C5 - Could action result in any adverse effects associated with the growth, subsequent development, or related activities likely to be

induced by the proposed action”, could be answered yes. Also, “C6 – Could action result in any adverse effects associated with long term, short term, cumulative or other effects not identified in C1-C5” could be answered yes. Also, “E – Is there, or is there likely to be, controversy related to potential adverse environmental impacts”, could be answered yes.

D. Farthing stated that she does not feel as though a long form assessment form is appropriate for this application. S. Richardson and C. Kruppner agreed. Therefore, it was agreed that the short form would be adequate.

Attorney Dolan and Mr. Dotterweich thanked the Board and left the meeting.

## **6. ESL – 22 Ryan Drive – Retaining Wall:**

Eric Schaff, Marathon Engineering and Joseph Burkhart, NPV Inc. appeared before the Board for a proposal for a retaining wall for ESL. Mr. Burkhart stated that the hillside behind the ESL building on Ryan Drive was supposed to be planted per site plan with crown vetch, which was done, but they have had some issues with it and are now proposing a retaining wall for that area. The wall is approximately 3’ high and approximately 300’ long (from Veteran Drive to where the electrical service pad is located). The top and bottom of the retaining wall will have a grassy area, which will be able to be mowed.

The Board wondered if the wall would be tapered or straight across. Mr. Schaff stated that the wall would taper down at each end. The Board also wondered if the retaining wall would interfere with traffic patterns. Mr. Schaff and Mr. Burkhart stated that it would not. The Board asked about drainage. Mr. Burkhart stated that it would be drained properly into existing storm water drains. The Board asked what color the wall would be. Mr. Burkhart stated that it would be similar to the building color.

With no further discussion, D. Woods moved to grant ESL site plan modification for a retaining wall along the rear or east side of the property. C. Kruppner seconded the motion. Chair Griffo asked that a sample of the brick chosen be submitted. Mr. Burkhart and Mr. Schaff did not have a problem with this. The motion passed with ayes from all.

## **7. Sign Permit Requests:**

### **Body & Face By Kristin – 58 Main Street**

Kristin Swanson appeared before the Board with a sign permit application, which was denied by the Planning Board in April. Chair Griffo asked about the picture on the proposed sign. Ms. Swanson explained that the picture is her logo that she has used for approximately four years. She also explained that it is actually a photograph of a painting, which hangs in the spa. D. Farthing asked if this sign would be replacing the sign that currently is on the façade of the building. Chair Griffo asked how the picture would be placed on the sign. Ms. Swanson was not sure how the sign maker planned on doing that but believed that it is transferred on their somehow. S. Richardson asked how big the actual picture is on the sign. Ms. Swanson stated that the sign is only 10 square feet in size therefore the picture is approximately one square foot in size. Chair Griffo stated that he has a concern about the appropriateness of the picture being used. The remainder of the Board did not feel this way, now knowing that it is actually a picture of a painting. With no further discussion, D. Woods moved to approve the sign as presented. D. Farthing seconded the motion and the motion passed with ayes from all.

**Attorneys Cannon & Van Allen, LLP – 10 University Drive**

Attorney Kevin VanAllen appeared before the Board with two sign permit applications. It was noted that the freestanding sign located at the top of University Drive was previously granted an area variance by the Zoning Board of Appeals. The Board asked if the signs meet Code. CEO Maxwell stated that they did. With no further discussion, D. Woods moved to approve the signs as presented. C. Kruppner seconded the motion and the motion passed with ayes from all.

**Forever Art II – 8 ½ Center Street**

Rob Bills appeared before the Board with a sign permit application. The sign has a light gray background with black lettering with a burgundy design. The sign will be backlit as the sign is actually replacing a pre-existing backlit sign.

The Board asked about the handwritten advertisements on the windows. It was noted that window coverage was allowed up to a certain percentage. Mr. Bills stated the building owner plans to replace those windows.

With no further discussion, S. Richardson moved to approve the sign as presented. C. Kruppner seconded the motion and the motion passed with ayes from all.

**8. Meeting Closed:**

With no further discussion, D. Farthing moved to close the meeting at 5:48pm with second from S. Richardson. The motion passed with ayes from all.

Aprile S. Mack, Secretary