

Members Present:

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

Other Village Representatives Present:

Code Enforcement Officer Ron Maxwell
Code Enforcement Officer Dean O'Keefe
Village Board Deputy Mayor John Fox
Village Board Trustee Sandra F. Brennan

Applicants Present:

Jay Phillips, Papa Jay's Café – 4162 Reservoir Road
Jim Olverd, Kircher Construction – Livingston Lanes Bowling Alley & Pub
Paul Dotterweich – 18 Wadsworth Street

1. Meeting Opened:

Acting Chair S. Richardson opened the meeting at 4:00pm.

2. Review of Minutes:

The September 28, 2011 Regular Meeting/Two Public Hearing meeting minutes were reviewed. C. Kruppner moved to approve the minutes as presented. D. Woods seconded the motion. The motion passed with ayes from S. Richardson, D. Woods and C. Kruppner. D. Farthing abstained as she was not present at the September 28th meeting.

3. Code Enforcement Office:

September 2011

Building Permits	9
Fire Inspections	3
Violation Notices	4

CEO O'Keefe reported that there are two pending property maintenance violations that are not listed on the report as they are being handed through Attorney Reynolds' office. One is in relationship to the grass on the boulevard not being cut and the other is in relationship to storage of materials on a Village right-of-way.

4. David Woods – Town Planning Board Update:

D. Woods stated that he was not present at the October 3, 2011 Town Planning Board meeting, but has reviewed the minutes from that meeting. The minutes indicate that the Special Use Permit was granted for the Genesee Valley Conservancy's new parking lot, that conceptual and preliminary approval was granted to the JMS Farms Subdivision off of Reservoir Road and that conceptual and preliminary approval was given to Coast Professional's expanded parking lot on Volunteer Road.

5. Special Use Permit Request & Sign Permit Request:

Papa Jay's Café – 4162 Reservoir Road:

It was noted that the Village has not been aware of any concerns related to the Café, therefore, D. Farthing moved to grant a permanent special use permit for the Café. C. Kruppner seconded the motion and the motion passed with ayes from all.

Mr. Phillips noted that the sign currently in place was not intended to be a permanent sign, but because of the cost factor for a new sign, would like to make this temporary one permanent. The

Board present did not have any issues with the sign, therefore, D. Woods moved to approve the sign as presented. C. Kruppner seconded the motion and the motion passed with ayes from all.

6. Livingston Lanes Bowling Alley & Pub – 4260 Lakeville Road:

Jim Olverd, Kircher Construction appeared before the Board on behalf of Mart Inn, Inc. Livingston Lanes & Pub for a 24' X 28' game room addition on the east side of the building. Mr. Olverd explained that they would like to try to keep the kids out of the bowling area and constructing this addition will help with that. He also noted that birthday parties are currently held in the bar area, therefore, they will be renovating an existing storage area into a special events room. These two items will help with the interior flow of the building. Mr. Olverd also noted that the addition will not be visible from the road.

D. Farthing asked if the renovations and addition allowed for proper emergency exits. CEO Maxwell commented that his office would not issue a building permit if the building plans presented did not.

D. Woods asked if the addition would interfere with the current parking or traffic flow. Mr. Olverd stated that it would not.

D. Farthing asked if there would be a need for additional HVAC (Heating Ventilation Air Conditioning) units. Mr. Olverd stated that it would not, but that they would need to expand the existing sprinkler system.

With no further questions, D. Farthing moved to grant sketch plat approval. C. Kruppner seconded the motion and the motion passed with ayes from all.

D. Woods moved to waive the public hearing requirement as set forth in Section 130-106A of the Village Zoning Code. D. Farthing seconded the motion and the motion passed with ayes from all.

At this time, the State Environmental Quality Review (SEQR) Short Environmental Assessment Form was reviewed for this project. With no further discussion, D. Woods moved to grant this proposal a negative declaration based on the information and analysis obtained and any supporting documentation on file that the proposed action will not result in any significant adverse environmental impacts. C. Kruppner seconded the motion and the motion passed with ayes from all.

With no further discussion, C. Kruppner moved to grant preliminary and final approval for a 24' X 28' addition to Livingston Lanes & Pub located at 4260 Lakeville Road. D. Farthing seconded the motion and the motion passed with ayes from all.

At 4:35pm Chair Griffo entered the meeting and Acting Chair S. Richardson turned the meeting over to him.

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

Village Attorney J. Thomas Reynolds advised the Board that the Judge in the Article 78 proceeding against the Village Planning Board has remanded this matter back to the Board for further hearing and development in evidence. Therefore, the Board should set a time for another Public Hearing on this matter. The two main concerns raised by the Village in the Article 78 proceeding was in regards to the swimming pool and parking. Therefore, per Attorney Dolan's emailed October 26, 2011 letter, his clients Paul & Jennifer Dotterweich will be offering evidence that they are in the process of obtaining estimates to fill in the swimming pool and to install a parking area where the pool currently is.

The Board wondered what type of reasonable conditions they could set. For example, can the Board ask that the house be owner occupied? Attorney Reynolds noted that there is nothing in the Code that differentiates between owner and non-owner occupied, therefore this request would not be considered reasonable.

The Board asked about the comments made by the public via the public hearing or letters received. Attorney Reynolds noted that the comments made are perspective concerns not factual. Therefore, no one can presume that if a “family” of four moves out and a “family” of eight moves in that will have a negative effect on the neighborhood. Attorney Reynolds stated that this was correct.

The Board wondered about the comments made by the public in relationship to property values decreasing if a single family home was turned into a two family. Attorney Reynolds noted that this would have to be proved via an expert real estate representative.

Attorney Reynolds explained that the Board could take a look at the parking/driveway arrangement and impose a condition that all tenants shall be parked on the property; however, this would preclude any visitors. Therefore, the Board asked if they could require that there be eight parking spaces located on the property for the possibility of eight tenants. Attorney Reynolds said that the Planning Board could make this a condition of the special use permit. The Board wondered if this was going against the Village trying to remedy backyards being turned into parking lots. Attorney Reynolds noted that in this case, this would be the only remedy, which could be granted through a special use permit.

At this time, Paul Dotterweich entered the meeting.

Mr. Dotterweich stated that they have secured Montemarano’s Backhoe Service to fill in the pool and distributed a letter to the Board from them stating this. Mr. Dotterweich stated that the changes they are proposing will not be visible from the road and will be making the property safer; including any vehicles leaving the driveway will now be able to do so front facing.

The Board asked Mr. Dotterweich to provide them with a layout for eight parking spaces. Mr. Dotterweich explained that they may not be able to fit eight parking spots in where they are filling in the pool, but the driveway is long enough to accommodate the other two parking spots. The Board did not have a problem with this. However, the Board was concerned with the possibility of vehicles parking on the grass especially in the front. Mr. Dotterweich stated that he could put a note in the lease stating that this was not allowed. It noted that this would be a violation of the Village Code. Code Enforcement Officer Maxwell and O’Keefe noted that per Village Code, the parking spots must be at least 9’ wide by 20’ long. The Board asked if it was reasonable to restrict that the parking be limited to tenants and overnight guests. Mr. Dotterweich did not have a problem with this. The Board was also concerned with ingress and egress considering the driveway is only wide enough to fit one vehicle. Therefore, the Board asked that Mr. Dotterweich encourage his tenants and their guests to keep the driveway clear at all times.

Chair Griffo asked who enforces the restrictions as set forth by the Planning Board. Attorney Reynolds stated that the Code Enforcement Officers could monitor and encourage the violator if there any violations to cooperate. Chair Griffo also asked who covers the expenses if the matter had to go to Court. Attorney Reynolds noted that the Village would. Chair Griffo asked if this Board could set as a condition in the Special Use Permit that any costs incurred enforcing the conditions be that of the applicants. Attorney Reynolds stated that he does not believe this was in the Code.

However, D. Woods noted that Section 130-20 D. Special Use Permits (1) (g) states that: *Where requested, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the special use permit.* Attorney Reynolds noted that performance bonds have to do with construction such as a new to be dedicated to the Village street in a new subdivision to cover the cost of completing the work if that developer fails to do so. S. Richardson however commented that it also states “*or other suitable financial guaranty*”. D. Woods stated that he agrees with Attorney Reynolds statement, but this seems to be more general than that in the fact that it states “*to assure compliance with the conditions of the special use permit*”. Attorney Reynolds stated that perhaps the Planning Board could require a bond for the anticipated costs of filling in the pool and installing the parking lot, but that is short term.

Mr. Dotterweich asked if any other rental property has been required to do this as this seems exorbitant. Chair Griffo explained that this is the first special use permit the Village Planning Board

has reviewed, therefore, they are trying to protect the Village's interests by reviewing all possible conditions they could set as this will affect future requests the Planning Board will have.

Mr. Dotterweich commented that he thought the Village has since removed this from the Code. Chair Griffo explained that they have, but the Planning Board has two pending applications that were applied for before the Village passed the new law prohibiting single family homes from being turned into two-family homes.

S. Richardson asked about a landscaping plan as described in (f) of Section 130-20 D. Special Use Permits (1) which states: *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.*

The Board asked what type of landscaping is planned for the parking lot. Mr. Dotterweich explained that there is a fence along the property line to the south and chain-link fence along the north property line. The Board also noted that if Mr. Dotterweich planned on lighting the new parking area, dark sky compliant lighting must be used and no light can spill onto other properties. Mr. Dotterweich stated that this would not be a problem.

D. Woods stated that the parking lot plan should outline the borders of the lot, where the parking spots will be located, how big the parking spots are (at least 9' X 20'), including adequacy for circulation and for vehicles to get in and out without driving on the lawn. Mr. Dotterweich did not have a problem with this.

S. Richardson asked about trash removal. Mr. Dotterweich stated that they have roadside pickup and not a dumpster. The Code Enforcement Officers reminded Mr. Dotterweich that he must supply enough sealable containers for two units. The Board asked that they be stored in the rear of the house and to place that storage spot on the sketch.

D. Woods stated that on previous special use permits granted, they were only granted for a period of one year. Mr. Dotterweich was concerned with this as if they go ahead and make all the necessary requirements, they could then be turned down at time of renewal. Chair Griffo noted that if there are no issues, the special use permit would more than likely be renewed. Chair Griffo also noted that per Section 130-20 D. Special Use Permits (2) *The special use permit shall be valid unless it is in violation with the Village of Geneseo Nuisance Law (Chapter 87) or any conditions set forth by the Planning Board.* Attorney Reynolds noted that the Nuisance Law has a three strike provision before an appearance ticket is issued. Chair Griffo stated that this Board encourages landlords to put this in their lease. Mr. Dotterweich did not have a problem with this but was still concerned about putting a one year term on the special use permit. Chair Griffo explained that if the landlord is being proactive and working with the Village, there should be no reason to think that the special use permit would not be renewed. Mr. Dotterweich did not have a problem with this, but stated that he would need to consult with his Attorney.

With no further discussion, the Board agreed to set the public hearing on this matter for Wednesday, November 16, 2011 at 5:00pm. Chair Griffo noted that the publication fee has been increased to \$75.00 from \$50.00 and the requirement to send a copy of the legal notice certified return receipt requested to all property owners within 100' of all property lines still applies.

S. Richardson asked what happens if the special use permit is granted for one year, but Mr. Dotterweich sells the property within that time. Attorney Reynolds stated that the special use permit stays with the property.

CEO Maxwell asked when the special use permit would start if granted due to Mr. Dotterweich needing to convert the house to a two-family per Code requirements. The Board was then concerned that in one year, they may not have any history on the property as a two-family so they may need to only renew for another year or grant the special use permit for longer than a year based on when Mr. Dotterweich believes he can have the conversion completed. Mr. Dotterweich stated that due to the expense involved in the conversion, he does not have any plans to sell the property right away. He also stated that the house is rented as a single family until the end of the spring semester, therefore

does not anticipate starting the conversion until then. He however did note that per insurance requirements he has to have the pool filled in by November 18th. The Board agreed that they would need to discuss this matter further.

8. Meeting Closed:

With no further discussion, S. Richardson moved to close the meeting at 5:39pm. C. Kruppner seconded the motion and the motion passed with ayes from all.

Aprile S. Mack, Secretary