

**Members Present:**

David Woods, Chair  
Matthew Griffo, Member  
Susan Richardson, Member  
Dori Farthing, Member  
Jim Kernan, Member  
Claren Kruppner, Alternate

**Other Village Representatives Present:**

Code Enforcement Officer Ron Maxwell  
MRB Group Engineer, Kurt Rappazzo  
Livingston County Planning Board Representative,  
Stewart Leffler  
Ben Gajewski, Village Board

**Applicant(s) Present:**

Glenn & Kim Punzi, 7 Woodbine Park, Special Use Permit Request – RV over 20' in length  
Paul Dotterweich, 18 Wadsworth Street, Special Use Permit Renewal – Two Family  
Mike Petti, Engineer, Petti Engineering, Genesee Valley Federal Credit Union, 4621 Millennium Drive  
Bambi Petti, Petti Engineering, Genesee Valley Federal Credit Union, 4621 Millennium Drive  
Jerry Koehler, President, Genesee Valley Federal Credit Union, 4621 Millennium Drive  
David Matthews, In.Site:Architecture, Vital Spot, 3 Bank Street  
Louise Wadsworth, Livingston County Development Corporation  
Brian Burri, Bergmann Associates, Goddard Development, Mavis Discount Tire, Lakeville Road

**1. Meeting Opened:**

Chair Woods opened the meeting at 4:30pm.

**2. Meeting Minutes:**

The May 28, 2014 Meeting Minutes were reviewed. M. Griffo moved to approve the minutes as presented. S. Richardson seconded the motion and the motion passed with ayes from D. Woods, M. Griffo, S. Richardson, D. Farthing. J. Kernan abstained as he was not present at the May 28<sup>th</sup> meeting.

**3. Dotterweich – 18 Wadsworth Street – Special Use Permit Renewal Request – Single Family to Two Family:**

Paul Dotterweich appeared before the Board to renew the special use permit for a two family home at 18 Wadsworth Street which was granted on June 27, 2012. Chair Woods noted that the Village Police Department, Code Enforcement Office and Fire Department were contacted to see if their had been any complaints at the property. Each department reported that there had been none.

The Board was concerned about the time period in which the permit should be renewed for. Some were concerned that if the permit was granted in perpetuity there would be no recourse if illegal activity were to take place on the property. Other Board members stated that if that were the case, legal action would need to be taken which would not necessarily involve the Planning Board.

S. Richardson also noted that the Village Nuisance Law would apply to this property like it does for all properties within the Village. M. Griffo stated that he understood this, but that he believes that the Nuisance Law is difficult to enforce. Chair Woods stated that the Nuisance Law states that three or more convictions within a twelve month period shall constitute a violation of the law. Per the Law, the following sections of local and state law shall be considered public nuisance violations:

Village Code

- 33-4 Deposit of containers prohibited
- 44-5 Nuisances prohibited
- 44-8 Dangerous Dogs

- 57-1 Discharge prohibited
- 77-2 Prohibited acts
- 86-12 Maintenance of exterior of premises
- 86-16 Emergency Conditions
- 98-2 Deposit of water on public or private property
- 105-4 Rubbish deposits on streets prohibited

New York Penal Law

- Article 120 Assault and Related Offenses
  - Sections 165.40 through 165.65
    - Criminal possession of stolen property
- Article 220 Controlled Substances Offences
- Article 221 Offenses Involving Marihuana
- Article 240 Offenses Against Public Order
  - Sections 260.20 and 260.21
    - Unlawfully dealing with a child

New York Alcohol Beverage Control Law

- Section 90 Kinds of Permits
- Section 100 Alcoholic beverages generally

New York State Property Maintenance Code

Mr. Dotterweich stated that he would prefer that a permanent renewal be given as he does not want to have to remember to renew every few years. S. Richardson stated that she is somewhat reluctant in granting a permanent renewal as she does not want the Board to set a precedent. M. Griffo stated that he would consider a permanent renewal but not until after another five years has passed. J. Kernan stated that he is open to a lengthier renewal as there have been no complaints for the past two years. Mr. Dotterweich stated that he believes he should be treated the same as all other landlords in the Village and that a permanent special use permit is what he is requesting.

D. Farthing moved to renew the special use permit for 18 Wadsworth Street to a two family home in perpetuity. J. Kernan seconded the motion. Chair Woods asked if there was any further discussion.

M. Griffo stated that he was not comfortable with granting a permanent special use permit for a two family home for this property. M. Griffo also noted that Section 130-20 of the Village Code states that the Planning Board can set conditions on special use permits. M. Griffo was also not sure if the Planning Board had ever granted a permanent special use permit. S. Richardson stated that the Board had recently approved a permanent special use permit for the preschool on Lima Road and had granted the tavern at 137 Center Street a permanent special use permit. It was noted that the original approval was granted with the following two conditions:

1. Retention by the applicant of the 8 parking spaces for tenant vehicles;
2. Adequate shielding of any exterior lighting from adjoining residences;

Chair Woods believes that if either one of those conditions were not adhered to, the special use permit would have been rendered void.

J. Kernan asked if this permit applies to the applicant or the property. It was agreed that the permit belongs to Mr. Dotterweich as long as he owns the property. If the property were to sell, the special use permit would need to be reapplied for.

M. Griffo stated that granting the original special use permit was something that the Planning Board did not want to do, but was ordered to do by the Court. Therefore, he is reluctant to give up the

right for some type of control over the property. He continued by stating that he has nothing against Mr. Dotterweich and all landlords should be treated fairly, but has strong reservations about approving anything in perpetuity.

Chair Woods noted that a motion to approve in perpetuity had been made and seconded. Therefore, hearing no other comments, the motion passed with ayes from D. Woods, S. Richardson, D. Farthing and J. Kernan. M. Griffo voted nay.

#### **4. Glenn & Kim Punzi – 7 Woodbine Park**

##### **Special Use Permit Request for RV over 20' in length:**

Chair Woods opened the Punzi Special Use Permit request public hearing at 4:48pm. Chair Woods opened the floor to Mr. and Mrs. Punzi. Mr. Punzi stated that he did not have comments to make but that after the complete process was done he would like to make a brief statement. Chair Woods asked if there was anyone present that had any comments or questions regarding this request. Hearing none, Chair Woods stated that he would leave the public hearing open until approximately 5pm.

J. Kernan stated that he was under the impression that there was going to be some discussion regarding this application with Attorney Reynolds. Chair Woods stated that after the Board's initial meeting with the Punzi's, Attorney Reynolds determined that there was no other choice but to treat this application as any other Special Use Permit application the Board would review.

#### **5. Upstate Regional Medical Supply – Sign Permit – 3 Center Street:**

As no one was present from Regional Medical Supply, Chair Woods presented the sign permit application to the Board. M. Griffo stated that he no longer owns the building at 3 Center Street, but does have a lease on the first floor for another year; therefore, he will abstain from voting on this application.

D. Farthing stated that she does not have any problems with the application, but does wonder why they decided to put the window lettering on the outside of the windows instead of the inside; therefore needing to make their main sign smaller to include the window lettering in the overall square footage. M. Griffo stated that he believes the windows are tinted so maybe that is why they decided to install the lettering on the outside of the windows.

With no further discussion, J. Kernan moved to approve the sign permit application as presented. D. Farthing seconded the motion and the motion passed with ayes from: D. Woods, S. Richardson, D. Farthing and J. Kernan. M. Griffo abstained.

#### **6. Genesee Valley Federal Credit Union – 4621 Millennium Drive – Parking Lot Expansion - Site Plan Modification Request:**

Mike Petti, Engineer, Petti Engineering and Design Services appeared before the Board on behalf of the Genesee Valley Federal Credit Union located at 4621 Millennium Drive. Mr. Petti explained that additional office space has been added to the basement of the building, therefore they wish to expand their parking by creating an additional parking area for employees only. Mr. Petti continued by stating that he is aware of the Board's concerns with the proximity to Jaycox Creek, however, the site plan has been modified to avoid any work on the tributary of the Creek. As noted on MRB Engineer Kurt Rappazzo's July 18<sup>th</sup> comment letter, the project does not meet the threshold to obtain coverage under the SPDES General Permit; however, a review of the existing stormwater management facility is still required to mitigate impacts from the project. Calculations should be submitted verifying that the existing stormwater management facility is capable to provide water quality and quantity mitigation for the proposed project.

A certified nursery will be used for all landscaping. It was agreed that the plans should clarify what landscaping is existing to remain in place versus relocated or new. Also, a planting table listing

proposed species, sizes and quantities should be provided for any new landscaping. A list of approved species can be found within the Village Code.

Mr. Petti noted that they plan to widen the entrance/exit from Millennium Drive 5' for vehicle maneuvering. He continued by stating that a 24-foot throat width is typical on a normal width roadway with shoulders. However, Millennium Drive is a 20-foot wide secondary road, which results in a less than ideal vehicle maneuvering and creates a congested entrance to the Genesee Valley Federal Credit Union site. The proposed 5-foot wide expansion will be striped as a 24-foot entrance/exit but will allow for 2.5 feet on either side to be used for vehicle maneuvering.

Engineer Rappazzo stated that there does not appear that the proposed employee parking lot will be lit. The application should consider providing some site lighting in this area to improve visibility. All site lighting shall be dark sky compliant and photo metrics are to be submitted. The Board agreed that lighting may not be necessary as it is an employee only parking lot and there may be enough light from the ATM.

With no further discussion, D. Farthing moved to approve site plan modification for an employee only parking lot at the Genesee Valley Federal Credit Union on Millennium Drive with the conditions that all the Village Engineer's comments from the July 18<sup>th</sup> letter are satisfied and the Board reviews the landscaping plan. S. Richardson seconded the motion and the motion passed with ayes from all.

## **7. Glenn & Kim Punzi – 7 Woodbine Park**

### **Special Use Permit Request for RV over 20' in length:**

Chair Woods asked if there was anyone present that wished to speak regarding the Special Use Permit request for a RV over 20' in length at 7 Woodbine Park. Hearing none, D. Farthing moved to close the public hearing at 5:04pm. J. Kernan seconded the motion and the motion passed with ayes from all.

Chair Woods stated that Section 130-54 C. of the Code states: *"No yard, driveway or vehicular parking area shall be used for any open storage or other storage of any equipment greater than 20 feet in length, such as motor homes, camping trailers, boats, utility trailers or other similar equipment, unless by special use permit. Criteria used for this special use permit:*

*(1) On an improved surface.*

*(2) In an area of the property that is the least visually intrusive to neighboring properties.*

Chair Woods noted that this section of the Code was amended in 2012 with Village Local Law #2 of 2012.

M. Griffo stated that it is distressing to him that Mr. and Mrs. Punzi had to go through the Special Use Permit process and not be grandfathered. M. Griffo asked if Mr. and Mrs. Punzi had to pay any fees associated with this application. Chair Woods stated that the Publication Fee of \$75 has not yet been paid.

S. Richardson commented that she feels as this Special Use Permit would need to go with the property owner and not to the property. The Board agreed.

With no further discussion, S. Richardson moved to grant a permanent special use permit to Glenn and Kim Punzi for an RV over 20' in length on their property at 7 Woodbine Park. M. Griffo seconded the motion and the motion passed with ayes from all.

Mr. Punzi asked if he could address the Board. The Board did not have a problem with this. Mr. Punzi stated that he had spoken with Village Attorney J. Thomas Reynolds who had advised him that the Code Enforcement Officers should be issuing violations to everyone in the Village that are in violation of this Chapter. He also stated that everyone he has talked with is not aware of this regulation. He stated that he has been told that the people that live on the same block as he does were issued a violation letter on the same day he was, but they have not been required to obtain a special use permit. He stated that he feels as though the Code Enforcement Officers are not following

through with the violation letters they issue and that he is being singled out. He stated that he has constitutional rights that are being broken.

Mr. Punzi continued stating that he had left Mayor Hatheway a note, but he has still not heard from him. He wonders why the Mayor has yet to get back to him. Secretary Mack stated that she believed the Mayor was under the impression that Mr. Punzi would be attending the Board meeting scheduled for the following Monday. Mr. Punzi replied that he was told he was not able to come to the Board meeting to speak without first being placed on the agenda. Secretary Mack stated that all meetings are open to the public.

CEO Maxwell entered the meeting at this time.

Mr. Punzi continued by stating that he has a short list of streets where properties may be in violation of this Section of the Code: Westview Crescent and Lima Road (several). He wonders why the Code Enforcement Officer is not issuing violations to these people. CEO Maxwell stated that he believes Mr. Punzi was told by Attorney Reynolds that his office only acts on complaints, they do not go out looking for them.

With no further discussion, Mr. and Mrs. Punzi left the meeting.

### **8. Goddard Development/Mavis Discount Tire – Lakeville Road – Site Plan:**

Brian Burri, Bergmann Associates appeared before the Board on behalf of Goddard Development. Mr. Burri stated that per Village Code *Section 130-106 D. Planning Board approval will become null and void within one calendar year of Planning Board final action if a building permit has not been obtained.* Site Plan approval granted by the Planning Board will expire on August 28, 2014, therefore, a three month extension is being asked for. Chair Woods stated that Attorney Reynolds advised that the Planning Board could grant an extension via a formal request which stated the reasons why the extension was being requested.

Mr. Burri explained that they are in the process of finalizing a general contractor and expect to start within three months. Mr. Burri continued by explaining that Goddard had first thought about moving forward with Phase II of the project with Phase I, which has delayed the process, but now they have decided to only do Phase I at this time.

Engineer Rappazzo stated that as far as he is concerned, the site plan is ready to be signed, however, the Phase II water main extension must be added to the site plan and he does not know if the proper easements have been filed. Attorney Reynolds will be contacted regarding the easements. The Board also made Mr. Burri aware of the outstanding fees owed to the Village, which span over three fiscal years, including the fiscal year that just began on June 1<sup>st</sup>. The Board asked if the Village paid the engineering and attorney invoices then billed the applicant. Secretary Mack advised that this was correct. The Board agreed that they could make this a condition of the extension of the approval of the site plan.

S. Richardson moved to grant a three month extension of the site plan approval for Goddard Development/Mavis Discount tire with the condition that the outstanding engineering and attorney fees are paid to the Village in full. J. Kernan seconded the motion. Chair Woods asked if there was any further discussion. The Board agreed that the motion should include that there will be additional fees incurred that will be billed to the applicant as this is an outgoing process. It was also agreed that the motion should include that Attorney Reynolds be contacted regarding the status of the easements. D. Farthing asked if the condition regarding the outstanding fees be reworded to include that any outstanding fees due to the Village be paid prior to the expiration/extension date of August 28<sup>th</sup>. Mr. Burri did not see a problem with this. It was also agreed that the three month extension is to begin on August 29, 2014 and will expire on November 28, 2014.

Hearing no further discussion, the motion passed with ayes from all.

### **9. Vital Spot – Exterior Patio – 3 Bank Street:**

David Matthews, Architect from In.Site:Architecture appeared before the Board on behalf of Paul DeVelder, owner of the Vital Spot. Chair Woods stated that Village Board Trustee Ben Gajewski was approached about the possible construction of an expansion of the Vital Spot onto the sidewalk for outdoor dining. Trustee Gajewski met with Mr. Matthews on site and then brought the general concept to the Village Board at their meeting on July 7<sup>th</sup>. Chair Woods continued by explaining that this is not an actual application before the Planning Board but more of a discussion about an application which may be forthcoming. Chair Woods stated that there are a lot of issues that need to be resolved, but asks the Board to listen to the general concept which Mr. Matthews will present and then give their informal reaction to it.

Mr. Matthews distributed a rendering of what the outside patio could look like, noting that the rendering was not drawn to scale. Mr. Matthews stated that it is Mr. DeVelder's hope that Mike Bishop, the owner of the Building, along with the Village Board can work collaboratively on this proposal. Mr. Matthews continued by stating that Mr. DeVelder who also operates the Ember Woodfire Grill in Livonia plans on improving the inside of the Vital Spot.

There are some questions as to where the property line is as it appears that currently, the entire sidewalk is entirely on Village property. A survey will be done soon to verify where the property line is. The existing sidewalk is 7' wide with a 7' wide brick boulevard and 8" curb for a total of 14'8". What they would like to do is construct a 9'4" three tiered patio, install an 8" stepped retaining wall and install a new 4' wide sloped sidewalk. Bank Street is unique as in its present condition because of the slope, the sidewalk is unusable, however, is constructing an outdoor private patio on a public street allowable and will it set a precedent if allowed. There is the possibility of the area still being used as a sidewalk during the off season as the tiers will meet all Codes and they are thinking about having almost all other pieces of the patio being removal so the area can be used in a functional way in the off season.

At this time, there were several comments and questions from the Board Members. The Board asked if the Village would retain ownership of the sidewalk and if they did what type of liability would this be for the Village or would they be able to sell the property. It was noted that Mayor Hatheway had contacted NYCOM – New York Conference of Mayors – and they advised that there are legal problems involved with selling any Village property to a private individual.

The Board asked if it was Mr. DeVelder's intent to serve alcohol on the patio. Mr. Matthews stated that it was and that the conceptual plan is to use the existing vestibule as the only entrance to the patio through the building and that the patio would be "roped off" somehow to prevent people from entering directly from the street.

Chair Woods stated that the Village Board was generally supportive of the concept but was aware that amendments and/or additions to the Zoning Code may be necessary. It was also noted that looking at the colored rendering as presented, the kitchen vent, window air conditioner and utility lines were not a desired look.

Trustee Ben Gajewski on behalf of the Village Board stated that the Village Board believed that the conceptual plan was worth exploring. They agreed that Bank Street as a whole would be enhanced by something like this and it would draw more people to Main Street. Trustee Gajewski stated that the Board was concerned about the alcohol open container law, but that the concept is not much different than that of the Big Tree Inn and Club 41, just on Village property instead of private property. The Village Board was concerned that other businesses may want to follow in these footsteps, but they agreed that it would really only apply to this business. The Village Board would like to pursue this concept further, but there is no clear process on how to do that.

Chair Woods noted that depending on what the Village Board decides, the Planning Board may or may not have to make a formal action but that the Planning Board would be looking at aesthetics including lighting and signage.

Louise Wadsworth, Livingston County Development Corporation stated that The Charred restaurant on Main Street in Mount Morris has a roped off area where they serve alcohol on the Village owned sidewalk. Mrs. Wadsworth continued by stating that area only has four tables and can sit up to 16 people. If you are seated in the area, you cannot walk out of the area and no one is allowed in the area from off the street. The Board commented that something like this in Mount Morris may work but they are concerned about the close proximity this patio will have to the college. Mrs. Wadsworth stated that she agreed but that the patio will be used seasonally only and believes that the hours the patio can be home could be limited. The Board was also concerned about the retaining wall becoming an additional seating area and that skateboarders and bicyclists may want to use the wall for stunts when not in use.

Mr. Matthews stated that he believes their biggest obstacle will be whether or not alcohol will be able to be served on the patio as he does not believe Mr. DeVelder will want to move forward with the project if it is not allowed. Mr. Matthews asked what their next step would be. Chair Woods stated that he believes that Mr. DeVelder should contact the ABC Board – Alcohol and Beverage Control Board – as soon as possible to see what may be involved on that end. It was also agreed that other municipalities should be contacted to see how this type of thing is allowed.

Mr. Matthews thanked the Board and left the meeting.

**10. NOT DOT Shop – 127 Main Street – Awning:**

Louise Wadsworth, Livingston County Development Corporation, presented the Board with a sign and façade change for the NOT DOT Shop building at 127 Main Street. A Livingston County Sign and Façade grant has awarded to the NOT DOT shop for the awning. The awning will be placed over the entrance to the hair salon on the south side of the building. The awning will have earth tone colors. S. Richardson was concerned about the awning in regards to ice in the winter that has been very visible on that area of the building during the winter. Mrs. Wadsworth believed that the awning is made to hold ice and snow. Chair Woods stated that this was an informational presentation to the Board, therefore no approval was needed. Mrs. Wadsworth thanked the Board and left the meeting.

**11. Code Enforcement Office Report:**

	<b>May 2014</b>	<b>June 2014</b>
Building Permits	05	11
Sign Permits	01	00
Rental Housing	00	01
Fire Inspections	00	00
Avoidable False Alarm Violations	00	01
Misc. Violations	02	04
Temporary Structure/Tent	00	01
Fireworks Permit	00	01

CEO Maxwell reported that CEO O’Keefe has been very busy completing rental housing inspections and was extremely busy during the Geneseo Summer Festival issuing sidewalk permits and inspecting tents during the festival.

CEO Maxwell reported that a second apartment building at the Hammocks will be given a Certificate of Occupancy tomorrow, Thursday, July 23, 2014. Coast Professionals on Volunteer Road in the Town has reported that they plan to purchase land from the Aprile family to build a 3<sup>rd</sup> edition

to the east side of their building. Also in the Town, many new businesses are going into the Genesee Valley Plaza (Wegmans Plaza) including Game Stop and Pet Smart.

It was noted that some digging had recently taken place between the Church of Latter Day Saints property and the NOYES Health Services building on East South Street. However, CEO Maxwell was not aware as to what the digging was for even though it appeared to be to remedy the drainage problems in the area. CEO Maxwell will look into this further.

The Board asked about the outdoor sales at Byrne Dairy, noting that it appears that they are now using a parking spot(s) for a sales display. CEO Maxwell stated that he would take care of this matter as soon as possible.

## **12. Town of Genesee Planning Board Update:**

David Woods reported that the Town Planning Board met on July 14<sup>th</sup>. Final approval was granted to American Rock Salt for an approximately 1500' rail spur extension at the mine on Route 63. Conceptual and Preliminary approval was granted to Patrick Colville for a two-lot subdivision on Long Point Road. D. Woods stated that the Town Planning Board is continuing its discussion regarding fences along Conesus Lake.

## **13. Livingston County Planning Board Update:**

Stew Leffler reported that the Livingston County Planning Board met on July 10<sup>th</sup>. Agenda items included:

Town of Sparta –

Moratorium on all natural gas and/or petroleum activities in the Town of Sparta.

Town of York –

Zoning text and map amendments to the Town of York Zoning Ordinance.

## **14. Cedarwood Estates Subdivision Update:**

Engineer Rappazzo reported that he is in receipt of the Mylar maps for the Cedarwood Estates subdivision, he will forward them to the Village once he has signed them. The Board asked if everything was completed for the subdivision including all easements being filed. Attorney Reynolds was not present; therefore, this question will be referred to him prior to the maps being signed off on. CEO Maxwell was concerned as to how his office should proceed with issuing Building Permits once the subdivision map has been filed. Engineer Rappazzo stated that prior to any construction beginning, a letter of credit will need to be issued and a preconstruction meeting will need to take place.

## **15. Meeting Closed:**

With no further discussion, D. Farthing moved to close the meeting at 6:20pm. J. Kernan seconded the motion and the motion passed with ayes from all.

Aprile S. Mack, Secretary