

**Minutes of the Town of Perinton
Zoning Board of Appeals
Meeting of March 24, 2014**

Zoning Board Members present

Thomas Young, Chairman
Sam Space
Vincent Arcarese
John N. Moose
Melissa L. Barrett
Seana Sartori

Absent

Robin Ward Ezell

Conservation Board Members present

Chris Fredette
Robert Salmon

Town Officials present

John Beck, Zoning Officer
Lori Stid, Zoning Board Clerk

Absent

Robert Place, Town Attorney

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

1. Richard Coyne as agent for Carl Arena /Burgundy Basin Inn, owner of property located at 1361 Marsh Road, requesting a renewal of a Temporary Activity Permit under Section 208-54 F, to allow Tuesday Night Cruise Night to be held from May 27th through September 9th 2014 from 5 pm to 8 pm. Said property being located in a Commercial District.

Richard Coyne and Larry Dilullo presented their renewal application to the Board as per letter of intent as shown below:

10 Heatherwood Road
Fairport, New York 14450
Feb 10, 2014

Town of Perinton
Perinton Zoning Board
1350 Turk Hill Rd.
Fairport, New York 14450

In Re: Letter of Intent

Dear Zoning Board:

This is our Letter of Intent for the second annual 2014 Tuesday Cruise Night at the Burgundy Basin Party House located at 1361 Marsh Road, Pittsford New York 14534

The cruise night will commence on May 27th and continue each Tuesday through Sept. 9th, 2014. Weather, in the form of rain or excessive heat will be a factor in cancelling Cruise Nights on any respective Tuesday. The staff will arrive at the Burgundy Basin at approximately 4:00 p.m. to setup the required traffic cones on the grounds and work with the Burgundy Basin Party House staff to make the outside area ready for the cruise cars. The cruise cars will begin arriving at approximately 5:00 p.m. and end at approximately 8:00 p.m. After the cruise cars have departed for the evening, a full cleanup of the grounds will be done by the cruise staff. Food, drinks and ice cream will be provided by the Party House. Restrooms are available for use by the public. There is ample parking on the grounds of the Burgundy Basin Party House for the cruise cars as well as for spectator cars. Cruise cars will be parked on the grass behind the Party House adjacent to the Warming House. The number of cruise cars, last summer, was typically between 50 and 80 cars per week. The spectator cars will be directed to the parking lots on the property. No cars will be allowed to park on Marsh Road. Letters of Intent have been mailed to the Monroe County Sheriff, Perinton Ambulance, and Bushnell's Basin Fire Department advising them of our plans to hold the event for the second year.

Mr. Young asked for questions or comments from the audience and there were none.

Mr. Young asked for questions or comments from the Conservation Board and there were none.

Mr. Young asked for questions or comments from CED.

Mr. Beck states that DPW had no comments on this application.

Mr. Beck states that CED issued comments as follows:

This is a renewal of a previously issued temporary activity permit; our office did not receive any complaints regarding this event. The CED Dept. recommends approval of the application with the following conditions:

- 1. The hours of the event shall be from 4 p.m. to 8 p.m.**
- 2. Any outside music shall face towards the rear (facing the canal).**
- 3. Show cars shall not exceed 125 in number, and shall be parked on the grass areas behind the party house adjacent to the warming house.**
- 4. All food, drinks, etc., will be provided by the Burgundy Basin Inn.**
- 5. Clean-up will be done by Cruise Night staff immediately following the event.**
- 6. There shall be no parking along Marsh Road.**
- 7. Applicant to provide traffic control personnel at the entrance to the Burgundy Basin Inn during the hours of the event.**

Mr. Young states that the applicant has already provided the Town with copies of letters to Monroe County Sheriff, Perinton Ambulance, and Bushnell's Basin Fire Department advising them of the event

Mr. Space made a motion to grant a renewal of a Temporary Activity Permit under Section 208-54 F, to allow Tuesday Night Cruise Night to be held from May 27th through September 9th 2014 from 5 pm to 8 pm, subject to the following conditions:

1. Any outside music shall face towards the rear (facing the canal).
2. Show cars shall not exceed 125 in number, and shall be parked on the grass areas behind the party house adjacent to the warming house.
3. All food, drinks, etc., will be provided by the Burgundy Basin Inn.
4. Clean-up will be done by Cruise Night staff immediately following the event.
5. There shall be no parking along Marsh Road.
6. Applicant to provide traffic control personnel at the entrance to the Burgundy Basin Inn during the hours of the event.
7. Approval shall expire after the last event is held in September, 2014.
8. This permit may be renewed administratively in the future, through the Office of Code Enforcement & Development, provided there have been no significant changes to the terms of the event or any complaints received by the Town pertaining to the event. Applicant shall reapply to the Town Office of Code Enforcement & Development at least several months prior to proposed first event date.
9. If you no longer wish to have this permit on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing that you have discontinued the use, and we will mark it null & void.

The use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts. The public health, safety, general welfare, or order of the Town will not be adversely affected by the proposed use in its location. The use will be in general harmony with and promote the general purposes and intent of the most recent Comprehensive Plan of the Town and the Zoning Ordinance. The proposed use will not interfere with the preservation of the general character of the neighborhood. The physical characteristics and topography of the proposed site make it suitable for the proposed special use. The proposed special use provides sufficient landscaping and/or other forms of buffering to protect surrounding land uses. The property has sufficient, appropriate, and adequate area for the use, as well as reasonably anticipated operation thereof. Adequate parking and internal traffic circulation can be accommodated on the property, and there is no parking allowed on Marsh Road.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

2. Greg & Pamela Brooks, owners of property located at 5 Pilgrim Circle, requesting the following variances of the Town of Perinton Zoning Ordinance Section 208-33 D (1) to allow a front porch addition to set 41.17 feet from the front property line instead of 50 feet. Said property being located in a Residential C District.

Randy Peacock, who is the architect for the project presented the application to the Board. They are proposing to expand the living area by pushing out towards the street and also to have a reasonable size porch. The configuration of the house will not permit the addition to go on the back. There is a daycare in the back and the way the roofline works it would not work. This parcel is on a curve in a cul-de-sac. The porch will be a benefit and will look good to the neighborhood.

Ms. Sartori inquires if the septic is in the back and the applicant states yes.

The remaining Board members felt that this would be a nice addition and will look good.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Young asked for questions or comments from the Conservation Board. Mr. Salmon states that the Conservation Board issued comments as follows:

CB members have made a site visit to this property and have observed that there is no storm sewer to the property; therefore storm water from gutters on the new addition will have to discharge to splash blocks. Visual impact may only affect the neighbor to the left as the right side will be somewhat screened by the existing pine trees. CB has no other concerns.

Mr. Salmon inquired if the applicant has spoken to the neighbor on their left. The applicant states that it is a rental; however, they did send a letter to all of the neighbors on the street advising them of this request and have had no feedback from any of the neighbors.

Mr. Young asked for questions or comments from CED. Mr. Beck states that DPW had no comments on this application.

Mr. Beck states that CED issued comments on this application as follows:

(1) Town staff has no concerns with this application and recommend approval.

(2) A building permit to be issued with 6 months.

Mr. Moose made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-33 D (1) to allow a front porch addition to set 41.17 feet from the front property line instead of 50 feet, subject to the following conditions:

1. Applicant to obtain a building permit within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

The applicant is hoping to add space to an existing dwelling. There is no other way to obtain the benefit being sought; the septic is in the back. There will not be an undesirable change to the character of the neighborhood; this will enhance the neighborhood. This is not a substantial request. There will not be any adverse physical or environmental effects caused by granting this variance.

Ms. Barrett seconds the motion.

Motion carries 6 - 0

3. Mamasan's Perinton LLC, owner of property located at 721,725, 735,741,747, and 751 Pittsford Victor Road and 6 Laird Lane, requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 D:
 - a. To allow the front setback for existing building #721 to be 13.33 feet instead of 85 feet, and to allow the side setback to be 15.67 feet instead of 30 feet.
 - b. To allow the front setback for existing building #725 to be 5.91 feet instead of 85 feet.
 - c. To allow the front setback for existing building #735 to be 16.79 feet instead of 85 feet.
 - d. To allow the front setback for proposed building #1 to be 11.08 feet instead of 85 feet.
 - e. To allow the front setback for proposed building #2 to be 17.05 feet instead of 85 feet.
2. Section 208-42 G, to allow the access points to be 180 feet apart instead of 350 feet.
3. Section 208-25, to allow the buffer area to be 15 feet (west side), instead of 50 feet.
4. Section 208-16 C (2), to allow the front parking setback to be 8 feet instead of 85 feet, and to allow the parking side setback to be 15 feet instead of 30 feet.
5. Section 208-14 C(3), to allow a proposed fence to be 8 feet in height instead of 6 feet.

Project known as Be Walters Retail Development. Said property being located in a Commercial District.

Alan Knauf, Attorney for Mamasan's Perinton, LLC presents the application to the Board as per letters of intent (shown below, which are a part of the record)

83-13 ORIGINAL



September 19, 2013

Mr. Thomas P. Young
Zoning Board of Appeals, Chairperson
1350 Turk Hill Road
Fairport, New York 14450

Re: Be Walters Retail - Pittsford-Victor Road
Zoning Board of Appeals Application - Area Variance

Dear Mr. Young & Fellow Board Members:

On behalf of our client, Mamasan's Perinton LLC (Le Thi Be Walters), we are submitting plans of the above referenced project for your review. We are requesting that this proposal be placed on the October 28th, 2013 Zoning Board of Appeals agenda for area variance approvals. The Planning Board granted Preliminary Site Approval with conditions at their meeting held on September 18th.

This project has been previously submitted to the Town in various stages of design, both in 2002 and 2005. Currently, the project involves properties located at 751, 747, 741, 735, 725 & 721 Pittsford-Victor Road and 6 Laird Lane. Under the current redevelopment plan, the single-family residence at 721 Pittsford-Victor Road is to be converted to office space. The existing Subway building is to remain unchanged. The church building is to be lowered and will have a new rear addition constructed to facilitate handicap access to the building. Proposed Building #1 is to be a 2,577 square-foot restaurant with a pick-up window and a seasonal outdoor seating area for 9 patrons. Proposed Building #2 is a 2,740 square-foot building anticipated to be retail/commercial use.

The property will be administratively combined into one lot to create one tax account and the resulting parcel area will be 3.784 acres. Currently the seven (7) lots are served by a total of eight (8) curb cuts on Pittsford-Victor Road. The redevelopment will eliminate seven (7) curb cuts. A new access point will be constructed south of the Proposed Building #2. A new exit-only driveway will be added for the drive-thru for Proposed Building #1. Two ingress/egress access points will serve the entire development. The consolidation of access points will serve to improve overall traffic patterns and flow within the Rt. 96 corridor in the Basin. Public sidewalks are to be constructed across the entire parcel frontage to enhance pedestrian access within the Basin.

The redevelopment of the parcels will require obtaining area variances. The last submission to the Planning Board for the redevelopment of the properties received final site plan approval at a Planning Board meeting in December of 2006. The last submission to the Zoning Board received approval for all area variances and special use permits requested in 2006. Per the attached Decision Letter from October 2006, we understand that the 23 patron outdoor seating and drive-thru window permits did not expire and will not need to be applied for again. Concerning the outdoor seating, we understand that this approval has recently become the Planning Board's responsibility. If the original approval does expire, we will request approval from the Planning Board accordingly. All variance requests are the same as made in 2006 and many are needed for existing conditions at the site.

Currently the parking areas are developed to the rear and western property lines. The redevelopment of the parcels will increase the side and rear parking setbacks to 15 feet and 50 feet respectively.

With regards to the factors to be considered in granting these variances we offer the following:

A. Whether the variations requested are substantial in relation to the requirement set forth in the zoning ordinance;

We do not believe the variances being requested to be substantial. The proposed front setback for Proposed Building #1 and #2 are consistent with that of the adjoining structures.

B. Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to adjoining properties will be created, if the variance is granted;

These variances are being requested to bring the property into zoning compliance. These requests for variances are proper in that in granting them, there will be no negative effect on neighboring property values or neighborhood character, nor will there be any negative effects on the health, safety or welfare of the community. The redevelopment of the parcel will enhance the overall appearance of the Bushnell's Basin corridor.

C. Whether the benefit sought by the applicant can be achieved by some reasonable, alternate method, other than a variance;

There is no other remedy that would allow for the property to be redeveloped. This project is consistent with the Town of Perinton's Master Plan objectives, specifically the Bushnell's Basin sub-area. This project will redevelop commercial property within the Basin with neighborhood service businesses.

D. Whether the alleged difficulty was self created;

The conditions that have led to the request for variances are not self-created. The structures and lots are existing. All existing structures need variances for front and side setbacks. The combination of lots into one parcel eliminates the need for side setback variances for all but the existing western most structure (#721).

E. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The redevelopment of this parcel will not alter the character of the neighborhood nor be detrimental to the residents. We believe this use promotes the intent of the Town of Perinton's Master Plan by establishing a business community service at this location.

Enclosed with this submission please find the following, updated materials, to aid in your review:

- Twelve (12) copies of this Letter of Intent
- Twelve (12) copies of the Area Variance Application Form
- Twelve (12) copies of the Short Form EAF
- One (1) copy of Owner's Authorization Form
- One (1) \$100.00 check for area variance application fee
- Twelve (12) copies of the Resubdivision Plan (C1.0)
- Twelve (12) copies of the Project Notes, Information & Specifications (C2.0)
- Twelve (12) copies of the Overall Plan (C3.0)
- Twelve (12) copies of the Demolition Plan (C4.0)
- Twelve (12) copies of the Layout Plan (C5.0)
- Twelve (12) copies of Building Elevation Plans

We believe this project will be a benefit to the entire Bushnell's Basin community and look forward to presenting it to the Zoning Board of Appeals. In the meantime, if you should have any questions or require additional information, please contact our office.

5-14



January 28, 2014

Mr. Thomas P. Young
Zoning Board of Appeals, Chairperson
1350 Turk Hill Road
Fairport, New York 14450

THE PIANO WORKS
349 W. COMMERCIAL STREET
SUITE 3200
EAST ROCHESTER, NY 14445
T 585.586.0200
F 585.586.6752
WWW.PARRONEENG.COM

Re: Be Walters Retail - Pittsford-Victor Road
Zoning Board of Appeals Application - Area Variance for Fence Height

Dear Mr. Young & Fellow Board Members:

On behalf of our client, Mamasan's Perinton LLC (Le Thi Be Walters), we are submitting plans of the above referenced project for your review. We are requesting that this proposal be added to our earlier application to appear before the board at the February 24th, 2014 Zoning Board of Appeals meeting for area variance approvals. The Planning Board granted Final Site Approval with conditions at their meeting held on January 15th. This variance request is being made at the appeal of the Planning Board per item number 12 on their attached resolution.

Enclosed with this submission please find the following, updated materials, to aid in your review:

- Twelve (12) copies of this Letter of Intent
- Twelve (12) copies of the Area Variance Application Form
- Twelve (12) copies of additional fence information
- One (1) \$100.00 check for area variance application fee
- Twelve (12) copies of the Layout Plan (C5.0)
- Twelve (12) copies of the Construction Detail Plan (C12.0)

We believe this project will be a benefit to the entire Bushnells Basin community and look forward to presenting it to the Zoning Board of Appeals. In the meantime, if you should have any questions or require additional information, please contact our office.

With Mr. Knauf are Carl Hewings, Parrone Engineering and Randall Peacock, Architect. This project has been in front of the Boards for decades. This project was approved in 2006 and did not go forward due to economical reasons. This will be a nice upgrade and improvement to what exists today. The Planning Board granted final site plan approval on 1-15-14. He reviewed the conditions of approval which are a part of the record (as shown below)

The Planning Board granted final site plan approval for Be Walters Retail Development for properties located at:

- 721 Pittsford-Victor Road - 179.10-1-44**
- 725 Pittsford-Victor Road - 179.10-1.43;**
- 735 Pittsford-Victor Road- 179.10-1.42;**
- 741 Pittsford-Victor Road - 179.10-1.41;**
- 747 Pittsford-Victor Road - 179.10-1.40;**
- 751 Pittsford-Victor Road - 179.10-1.39;**
- 6 Laird Lane - 179.10-1.45,**

for the conversion of the single family residence at 721 Pittsford Victor Road to office space, the existing Subway building to remain unchanged, the church building to be lowered with a rear addition to facilitate handicap access to the building, construction of a 2,577 s.f. restaurant facility with a pick-up window and seasonal outdoor seating area for 9 patrons, and construction of a 2,740 s.f. building for office/retail use, for plans received by the Town on 11/7/2013, subject to the following conditions:

- 1. Satisfaction of any remaining concerns of the DPW.**
- 2. A letter of credit for all site improvements is required.**
- 3. All site work is to be completed prior to issuance of a Certificate of Occupancy.**
- 4. Building 1 and Building 2 architectural elevations require approval by HAC and the Planning Board, with the hours of operation for the drive-thru addressed by the Planning Board at that time.**
- 5. The applicant is to extend the curb line behind the Subway and reconfigure parking spaces.**
- 6. The applicant is to obtain necessary variances from the ZBA.**

7. All conditions of the October 26, 2006 drive-thru Special Use Permit that was issued by the ZBA remain in force and are to be identified on the final plan, and specifically that the noise generated by the menu board and drive-thru will not exceed the ambient sound level at the property line for Lot 1, consistent with the sound study outlined in a letter from Parrone Engineering dated 11/16/2006.
8. Applicant to obtain any additional Certificate of Appropriateness required from HAC.
9. Applicant to show on final plans the conditions of both of the 10/8/13 Certificate of Appropriateness - Certificate Number 07-2013 & Certificate Number 08-2013.
10. Applicant to file an administrative subdivision map, that combines all existing parcels into one single parcel, and recorded in the Monroe County Clerk's Office prior to Town Officials signing the project Site Plan.
11. Building 2 to be labeled as Commercial Retail.
12. The entire fence is to be 8' in height, solid vinyl, in an earth tone color.
13. The retaining wall is to have a maximum height of 8'.
14. Light fixtures are to have a maximum height of 16' from grade to the highest point.
15. Existing light fixtures are to be removed.
16. Landscaping in the buffer area is to be enhanced by the applicant in the following manner: the applicant shall provide two times the number of trees that were proposed and shown on the previous plans dated 11/7/13. The intent of this requirement is to improve the screening and shielding of the proposed development for neighboring properties.
17. The applicant is to obtain any necessary DEC permits.
18. Snow storage is to be identified on the plans.
19. Plan for storing snow be reviewed and approved by the Commissioner of DPW.
20. All signage is a separate application.
21. Applicant will not use Laird Lane or Hidden Hollow for access to the site for construction purposes.

The Planning Board granted a Negative Declaration of SEQRA on 9/18/2013.

Most of these variances were approved back in 2006. The fence height is new, as a mitigation measure and was suggested by the Planning Board. This is a positive for the neighborhood. The previous plan had two lots, and now everything will be combined into one lot. Most of the variances are due to the pre-existing conditions. They wish to line up the new buildings with the same frontage as the existing buildings. Given the present orientation of the buildings, they do not feel that they are asking for anything substantial. This is a positive change to the property and is consistent with the plans that the Town has for Bushnell's Basin. There is no other way to attain the benefit being sought. The conditions have already existed and they are trying to preserve the older buildings. Impact to the neighborhood has been buffered by increasing the amount of trees, stormwater system and the fencing.

Mr. Young has no questions.

Mr. Arcarese states that this project has been before this Board numerous times; he supported it then and he supports it now.

Mr. Moose states that this project has been before multiple Boards in the Town. A lot of time, energy and effort have been spent on it over the years. This Board is very familiar with the proposal. He has no questions.

Ms. Barrett states that this project demonstrates good site planning.

Ms. Sartori had no questions or comments.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that this Board has been reviewing this project since 1991. The concerns of the Conservation Board have been addressed.

Mr. Young asked for questions or comments from CED.

Mr. Beck states that DPW had no comments on this application.

Mr. Beck states that CED issued comments as follows:

The Planning Board issued final site plan approval on Jan. 15, 2014. Town staff has no concerns regarding this application. A building permit for all properties is to be issued within one year.

Mr. Young states that the Planning Board issued comments on this application as follows:

The Board recommends approval of all the requested variances. Similar variances were granted in 2006. The Board feels the Approved plan is a well engineered plan and works well with what was proposed.

1) a), b) and c)

The Board recommends approval of all the aforementioned requested variances because they are pre-existing non-conforming "housekeeping" variances. This is a good site plan because it maintains the architectural integrity of the church building, which is one of the most historically important buildings in the Basin. A similar variance was granted in 2006.

d) and e)

The Board recommends approval of both aforementioned requested variances because they are in line with the pre-existing non-conforming "housekeeping" variances. Many other properties in the Basin already have these types of variances to accommodate their redevelopment. This is a good site plan because it allows the

drainage to work properly the way the DPW prefers, and it maintains the architectural integrity of the other existing buildings on site.

- 2) The Plan minimizes the number of curb cuts along busy Rt. 96 compared to existing zoning. A similar variance was granted in 2006.
- 3) The Planning Board also believes this plan does the best possible job of buffering the neighbors to the rear. Additional Landscaping has been placed to enhance the buffering. A similar variance was granted in 2006.
- 4) The Board recommends approval of both aforementioned requested variances because they are also pre-existing non-conforming "housekeeping" variances. Many other properties in the Basin already have similar variances. This is a good site plan because it allows the drainage to work properly the way the DPW prefers, and it keeps the majority of the parking in the rear of the development. A similar variance was granted in 2006.
- 5) The Board recommends approval because there is an elevation drop at the proposed fence location. An 8 foot high fence will perform more like a 6 foot high fence at the proposed location and will better buffer the neighbors to the rear.

Mr. Young states that CED sent a chart to the ZBA showing a comparison from the 2006 approval and what is being requested today. See chart below, which is a part of the record:

| <u>2014 Variance Request</u> | <u>2006 Variance Request / Approval</u> |
|---|--|
| Section 208-42D | Section 208-42D |
| Front setback Bldg. # 721 to be 13.33 feet instead of 85 feet, and to allow side setback to be 15.67 feet instead of 30 feet. <i>minor difference</i> | Front setback Bldg. # 721 to be 13.33 feet instead of 85 feet, and to allow side setback to be 15.58 feet instead of 30 feet. |
| Front setback Bldg. # 725 to be 5.91 feet instead of 85 feet. <i>Same as 2006 approval</i> | Front setback Bldg. # 725 to be 5.91 feet instead of 85 feet. – |
| Front setback Bldg. # 735 to be 16.79 feet instead of 85 feet. – <i>Same as 2006 approval</i> | Front setback Bldg. # 735 to be 16.79 feet instead of 85 feet |
| Front setback proposed Bldg. # 1 to be 11.08 feet instead of 85 feet <i>minor difference</i> | Front setback proposed Bldg. # 1 to be 10.95 feet instead of 85 feet |
| Front setback proposed Bldg. # 2 to be 17.05 feet instead of 85 feet. <i>minor difference</i> | Front setback proposed Bldg. # 2 to be 17.02 feet instead of 85 feet. |
| Section 208-42G | Section 208-42G |
| To allow the access points to be 180 feet apart instead of 350 feet. <i>Same as 2006 approval</i> | To allow the access points to be 180 feet apart instead of 350 feet. *Negative SEQRA granted |
| Section 208-25 | |
| To allow the buffer area (west side) to be 15 feet instead of 50 feet. <i>Same as 2006 approval</i> | To allow the buffer area (west side) to be 15 feet instead of 50 feet. *Negative SEQRA granted |
| Section 208-16 C (2) | Section 208-16 C |
| To allow front parking setback to be 8 feet Instead of 85 feet, and to allow parking side setback to be 15 feet instead of 30 feet. <i>Same as 2006 approval</i> | To allow front parking setback to be 8 feet Instead of 85 feet, and to allow parking side setback to be 15 feet instead of 30 feet. *Negative SEQRA granted |
| | |
| | |

| <u>2014 Variance Request</u> | <u>2006 Variance Request / Approval</u> |
|------------------------------|---|
| | Lot 1 to be 2.34 acres and Lot 2 to be 1.50 acres, both instead of 10 acres |
| | |
| | Special Permits |
| | Outside dining - Negative SEQRA granted |
| | Drive-Thru window with order board granted Negative SEQRA granted |

Mr. Young states that most of the requests are either identical or have a very minor difference from what was approved in 2006.

Mr. Young asked for questions or comments from the audience.

Mitch Silver, 14 Simsbury Lane had numerous questions about the size of the proposal and if it was primarily retail development. Mr. Knauf states that it is primarily retail. Mr. Peacock states that the new buildings are proposed to be #1 – 2577 sq ft, and #2 – 2740 sq ft. The existing church is about 750 sf and that will be expanded a little bit. The Subway building is 3300 sq ft and the other building is 782 sf ft with a little addition. Mr. Silver questioned if the buildings would be single story or two stories. Mr. Peacock states that they will be the height of a two story building. Mr. Silver questioned if a Dunkin Donuts could go in here. Mr. Peacock states yes. Mr. Silver expressed concern with potential traffic impacts. He also feels that these buildings will be huge and will not fit in. The Basin will no longer be a hamlet with this proposal. The use doesn't lend itself well to the Basin.

Linda Baker, 31 Great Oak Lane feels that the Special Use Permit for the drive up window should have expired. Mr. Young states that this Board made it a condition of approval that there was no expiration date. Ms. Baker states that this project is using 6 Laird Lane as a buffer for commercial development. Mr. Knauf states that stormwater is an allowed use of 6 Laird Lane as it is not a commercial use. Mr. Peacock states that in 2006, Scott Copp, Director of Building Department, made a determination that the buffer zone does not have to be in the Commercial district. Ms. Baker objects to that use for 6 Laird Lane. She feels that the two new buildings are too tall and will not fit in well with the Basin. Mr. Young states that concern should have been brought up at the time of site plan approval. This Board is not looking at site plan issues; just the variance requests before them.

Ron Lovell, 24 Laird Lane, expresses concern about screening. He feels that the current code would not allow a drive-thru in this area and should not be allowed now. He expresses concern about snow storage location not being shown on the plans. He expresses concern about maintenance of trees and shrubs. Mr. Young states that the drive-thru has already been approved and is allowed and the remainder are site plan issues, which this Board is not looking at.

Ms. Walters suggests to the neighbors that if they wish to purchase the land then they should make an offer to her.

Mr. Knauf states that due to the pre-existing buildings, it does not make sense to not try to line up the new buildings with the buildings that have been there historically. If they complied with the 85', which he doesn't think is even possible with the wetland, it would not look good.

Mr. Young made a motion that after due consideration, the changes to the plan that were approved in 2006 are not substantive and there is no need to make a new determination of significance under SEQRA.

The Zoning Board granted a negative declaration of SEQRA in 2006 and approved most of these variance requests back then. The variances that are being requested, except for the 8' high fence, are all virtually identical to the variances that this Board reviewed and approved in 2006. The changes that have been proposed in the most recent set of plans submitted are so minor that they are not substantive and there is no need to make a new determination of significance for SEQRA. A fence has been added at the request of the Planning Board.

Mr. Space seconds the motion.

Motion carries 6 – 0.

Mr. Young made a motion to grant the following variances of the Town of Perinton Zoning Ordinance:

Mamasan's Perinton LLC, owner of property located at 721,725, 735,741,747, and 751 Pittsford Victor Road and 6 Laird Lane, requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 D:
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 - d. To allow the front setback for proposed building #1 to be 11.08 feet instead of 85 feet.
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2. Section 208-42 G, to allow the access points to be 180 feet apart instead of 350 feet.
3. Section 208-25, to allow the buffer area to be 15 feet (west side), instead of 50 feet.
4. Section 208-16 C (2), to allow the front parking setback to be 8 feet instead of 85 feet, and to allow the parking side setback to be 15 feet instead of 30 feet.
5. Section 208-14 C(3), to allow a proposed fence to be 8 feet in height instead of 6 feet,

all subject to the following conditions:

1. A building permit for all properties is to be issued within one year from meeting date. If you do not obtain your building permit prior to this date, the variances are null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variances null & void.

Findings of fact: (adopted from the comments of the Planning Board dated 2/20/14)

Similar variances were granted in 2006. The Planning Board feels the approved site plan is a well engineered plan and works well with what was proposed.

- 1) a), b) and c)
These are pre-existing non-conforming "housekeeping" variances. This is a good site plan because it maintains the architectural integrity of the church building, which is one of the most historically important buildings in the Basin. A similar variance was granted in 2006.

d) and e)

These are in line with the pre-existing non-conforming "housekeeping" variances. Many other properties in the Basin already have these types of variances to accommodate their redevelopment. This is a good site plan because it allows the drainage to work properly the way the DPW prefers, and it maintains the architectural integrity of the other existing buildings on site.

- 2) The Plan minimizes the number of curb cuts along busy Rt. 96 compared to existing zoning. A similar variance was granted in 2006.
- 3) This plan does the best possible job of buffering the neighbors to the rear. Additional landscaping has been placed to enhance the buffering. A similar variance was granted in 2006.
- 4) These variances are also pre-existing non-conforming "housekeeping" variances. Many other properties in the Basin already have similar variances. This is a good site plan because it allows the drainage to work properly the way the DPW prefers, and it keeps the majority of the parking in the rear of the development. A similar variance was granted in 2006.
- 5) There is an elevation drop at the proposed fence location. An 8 foot high fence will perform more like a 6 foot high fence at the proposed location and will better buffer the neighbors to the rear.

There will not be an undesirable change to the character of the neighborhood, nor will there be a detriment to nearby properties created by granting these variances. The benefit cannot be achieved in any other manner. Given the number of the variances that are pre-existing, non-conforming conditions on the parcels, overall the variances being requested are not substantial. There will not be any adverse effect to the physical or environmental conditions of the neighborhood, given that the way this has been designed, as they are asking to obtain the most minimal number of variances that are necessary to facilitate this development. Given the pre-existing nature of the buildings that are there, the difficulties are not self created that brought about the initial need to ask for these variances.

Mr. Space seconds the motion.

Motion carries 6 – 0.

Discussion:

2-24-14

Mr. Arcarese made a motion to approve the minutes of February 24, 2014 as amended.

Mr. Moose seconds the motion.

Motion carries 4 – 0 with two abstentions of Ms. Barrett & Ms. Sartori due to absence.

There being no further business before the Board, the meeting adjourned at 8:45 PM.

Respectfully Submitted,

Lori L. Stid, Clerk