

PERINTON TOWN BOARD HEARING
1350 Turk Hill Road, Fairport, NY 14450
Thursday February 19, 2015

PRESENT:	Michael G. Barker	Supervisor
	Joseph H. LaFay	Councilperson
	Peg S. Havens	Councilperson
	Steven C. Van Vreede	Councilperson
	Ciaran T. Hanna	Councilperson

ALSO PRESENT: Robert Place, Esq., Town Attorney; Jennifer A. West, Town Clerk; Michael Doser, Director of Code Enforcement and Development; John J. Beck, Deputy Director of Code Enforcement and Development.

Supervisor Barker called the hearing to order at 4:00 pm and introduced the Board and staff present. Supervisor Barker explained that the purpose of this hearing was to determine if the Certificate of Occupancy for the business located at 7323 Pittsford Palmyra Road, known as Best Eastern Spa, Inc., should be revoked.

Town Attorney Place stated that he had two witnesses to call, Michael Sean Turton of the NYS Police and John J. Beck, Deputy Director of Code Enforcement and Development. Mr. Place administered an oath to Mr. Turton. Mr. Turton explained that he has been employed by the NYS Police for 20 years and currently serves as an Investigator assigned to the Special Investigations Unit. His main function is to work long-term investigations which may include surveillance and undercover work. Mr. Turton stated that he conducted an undercover operation at 7323 Pittsford-Palmyra Road on January 23, 2015. He explained that leading up to January 23, 2015 they had heard rumblings of a massage parlor, titled Best Eastern Spa providing sexual services in addition to massages at 7323 Pittsford-Palmyra Road. Prior to January 23, Mr. Turton interviewed "johns" and researched online through a website called Escort Client Community Information Exchange (ECCIE) to see whether the women performing the massages and other services at Best Eastern Spa were being reviewed by clients.

On January 23, 2015, Mr. Turton went to 7323 Pittsford-Palmyra Road acting in an undercover capacity. He was greeted by an Asian woman going by the name of "Candy" and was lead to one of the massage rooms where Mr. Turton negotiated a ½ hour massage for \$40. "Candy" massaged his neck, shoulders, back, head and scalp. Following the massage, Mr. Turton had a conversation with "Candy" and felt that had he provided her with additional funds, he would have been able to receive a sexual service. Attorney Place asked whether there appeared to be any other legitimate activity going on at that location and Mr. Turton stated that there were no barber chairs, nail salon type products, etc. Mr. Turton went back to 7323 Pittsford-Palmyra Road on February 4, 2015. He secured two search warrants to search Best Eastern Spa and apartment #36, also located at 7323 Pittsford-Palmyra Road. Apartment #36 is where the two Asian females working at Best Eastern Spa live. Search warrants were executed by Mr. Turton and other members of the NYS Police, Homeland Security Investigations and the Monroe County Sheriff's Office. Attorney Place asked whether "Candy" was able to produce a license to perform massages and Mr. Turton stated that she was not. Mr. Turton also checked the NYS Education website and did not find licenses for either woman working at Best Eastern Spa, Inc., and therefore tickets were issued On February 4, 2015 for operating without a license. "Candy" was arrested for unauthorized practice of a profession, which is an E Felony under the Education Law, and prostitution which is a misdemeanor under the Penal Law.

Councilperson Van Vreede asked whether it was verified that "Candy" did not have a license and Mr. Turton stated that it was, by her own admission.

Councilperson LaFay asked how the charge for the prostitution was verified and Mr. Turton stated that the undercover activity on January 23, 2015 was used as probable cause for a search warrant.

Councilperson Hanna asked if there was any evidence of hair care or nail services and whether the women could assert that their main business was doing nails and if

asked, they would provide a massage? Mr. Turton stated that there were no fixtures or supplies that would indicate anything going on other than massages.

Attorney Place then administered an oath to John J. Beck, Deputy Director of Code Enforcement and Development for the Town of Perinton. Attorney Place asked Mr. Beck if he was familiar with the property located at 7323 Pittsford-Palmyra Road and whether he had researched the Town records to see what the approved use was for the property. Mr. Beck stated that in approximately 1983 the Town issued a building permit for a hair salon and that there is no record of any subsequent permits being issued. The building permit was entered into the record as Exhibit A. Mr. Beck went to the property on February 4, 2015 and entered the building with the NYS Police, looking for violations of the NYS Building Code. Mr. Beck supplied a sketch of the layout of the property, which was entered as exhibit C. He also provided photographs and descriptions of all rooms, hallways, massage tables and areas of this property, which were entered into the record as exhibits B 1-10. Other photographs labeled exhibits B 11-14 show appearance tickets, a letter written by Michael Doser and a Certificate of Occupancy suspension notice, which were all posted on the door. Attorney Place also asked Mr. Beck if he had any indication during his search of the property that there was any other legitimate activity occurring there and he stated that there was no indication. Attorney Place asked what the zoning classification was for this property and Mr. Beck stated that it is zoned Limited Commercial. Under the Town of Perinton Code, this establishment would be classified as a massage establishment which is considered Adult Use. Under the Perinton Code, Adult Uses are only permitted in Industrial Zoning. Attorney Place asked Mr. Beck if he felt based on his observation that the use was just a massage establishment and he stated that it was.

Councilperson Van Vreede stated that the building permit was issued for this property in September of 1983 and that it appears that they never received a final inspection. Mr. Beck stated that this was true and that it is unknown what they did with the remodel at that time. Councilperson Havens asked whether the property has had the same owner since 1983 and Mr. Beck stated that it has. Councilperson Hanna asked what the difference was between Commercial and Limited Commercial Zoning. Mr. Beck stated that the zoning changed in 2004 and that the uses permitted in Limited Commercial would be limited to barber shops and beauty salons. A spa or massage parlor would not have been allowed under either zoning designation. Councilperson Hanna asked Mr. Beck to confirm that it was not possible that a rogue employee could have been performing massages in a hair salon and Mr. Beck reiterated that there was no evidence of beauty parlor or barbershop equipment at this property.

Councilperson LaFay made a motion seconded by Councilperson Van Vreede that there is sufficient evidence that the Best Eastern Spa, Inc. located at 7323 Pittsford-Palmyra Road, is operating as a massage establishment.

Ayes: Barker, LaFay, Havens, Van Vreede, Hanna
Nays: None
Unanimously Approved

Councilperson Havens made a motion, seconded by Councilperson LaFay that operating a massage establishment is not a permitted use in a Limited Commercial District and goes against the Code of the Town of Perinton.

Ayes: Barker, LaFay, Havens, Van Vreede, Hanna
Nays: None
Unanimously Approved

Councilperson LaFay made a motion, seconded by Councilperson Van Vreede that giving massages without a license creates an immediate danger to the health, safety and welfare of the public.

Ayes: Barker, LaFay, Havens, Van Vreede, Hanna
Nays: None
Unanimously Approved

Councilperson Hanna made a motion, seconded by Councilperson Havens to revoke the Certificate of Occupancy for Best Eastern Spa, Inc. located at 7323 Pittsford Palmyra Road based upon the foregoing findings.

Ayes: Barker, LaFay, Havens, Van Vreede, Hanna
Nays: None
Unanimously Approved

There being no further business before the Board and no further questions from the audience, the Board adjourned at 4:30 pm.

Respectfully submitted,

Jennifer A. West
Town Clerk