

APPROVED

LAKE GEORGE VILLAGE DECEMBER 17, 2008 PLANNING BOARD MINUTES

Board Members present:

Robert Mastrantoni, Dan Courtney, Dan Garay, Margy Mannix, Patricia Dow, Debbie Tirri (Alternate)

Others present:

Doug Frost (Code Enforcer), Carol Sullivan (Secretary), Mark Schachner (Atty. for the Planning Board), Dan Brown (Architectural Consultant for the Planning Board), Atty. Stephanie Bitter (Atty. for Holly Raj. application.) Dan Ryan (Engineer for Holly Raj application.), Mike Tirri, Barbara Neubauer, Luisa Craige Sherman, Patty Kirkpatrick, Chris Navitsky, Jacquie Freihoffer, John Loonan, Jan Loonan, Linda Duffy.

Chairman Mastrantoni called the meeting to order at 6 PM.

ZONING ISSUES

The board determined the moratorium and development of zoning for decks and outdoor dining to be the most important issue at this time and began discussing deck/outdoor dining.

After reviewing the Mayor's (Village Board) memo of 11/18/2008 (Exhibit 1 attached) the board began "brainstorming" and discussing several ideas.

- The board reviewed the current zoning definitions for a full service restaurant, fast food restaurant and tavern. They agreed the definitions need to be looked at and possibly changed as the ordinance for decks and outdoor dining is developed.
- The planning board identified noise as an existing problem.
- A question arose of whether or not the village can limit the hours of operation. Patricia Dow advised that the Village Board of Trustees are looking into this. The board discussed the various problems with telling business owners that they have to shut down a portion of their business at a particular time. Patricia Dow pointed out that historically some water based activities have been limited; for instance jet-skis and parasailing operations. The noise ordinance is another example of setting limits. Patricia added she thought in the interest of public safety some limits could be established. She added the serving of food is not a problem however, just drinking can be a problem.
- The board agreed that currently some establishments have food, entertainment and a bar out of doors (Lobster Pot) and they are considered a full service restaurant. Other establishments have outdoor seating (sidewalk cafes) but are very limited in what they have available for food and they do not serve alcohol. Some issues have to be controlled by management of the establishment.
- Doug pointed out the moratorium was established because of concern expressed over the possible size of the decks. Now the discussion seems to be going towards establishing restrictions for businesses rather than addressing deck sizing. He also mentioned many establishments have their primary business conducted on a deck and now the board is discussing closing decks at a particular time which could become a financial burden to some establishments.
- Doug added that during the summer season the village did not have any complaints regarding noise. Carol added there were only a couple of times when decibel readings were outside the scope of the ordinance.
- Patricia pointed out the Comprehensive Plan discusses a diversity of businesses and Canada St's streetscape shouldn't allow for establishments with large decks. When properties turnover that is when something could be built or changed to increase the density.
- Doug mentioned density can be controlled by the size of the deck.
- Doug pointed out that enforcement must be taken into consideration with whatever is developed; it would be difficult, for instance, to enforce whether or not patrons of an establishment are seated.

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- The board identified some issues with the current decks and their current operation; too close to the road/sidewalk, noise.
- Robert pointed out when the new zoning was being developed there were discussions to encourage second floors and to build out to the road/sidewalk. Now it seems business people are realizing that a second floor deck will work without having a huge construction investment.
- The board discussed the possibility of limiting decks/outdoor dining to the first floor.
- The board discussed the number of businesses that currently have enough frontage to add a deck to the property line (Judd's, what was Soprano's, J C Montana's). If a setback is established under existing conditions it will be difficult for anyone to add a deck.
- Carol mentioned that the bakery operator wants to put a couple of tables and chairs outside this spring and the property owner has asked if it would be OK. They would not be on village property. She added the board needs to take the smaller businesses into consideration when developing this new ordinance because there may be instances where it would be pleasing to see a couple of tables outside but the new ordinance could be restrictive so in these instances table/chairs would not be allowed.
- The board discussed the possibility of limiting the number of tables that could be allowed for a zero setback. There may be smaller businesses that want to put a couple tables/chairs out on the property owner's property. For instance a deck or seating area designed for less than - some small number of tables - can have a zero setback - like the sidewalk cafes which are small and enjoyable. The larger decks are the concern and maybe guidelines could be established - under a certain capacity a zero set back is allowed and a larger capacity has to meet a setback because with larger crowds there is a safety concern.
- Patricia expressed concern over second story decks that look over the public walkways. There's a greater degree of anonymity on second story decks. Perhaps they should have a setback or perhaps second story businesses should be limited to retail only.
- The board discussed existing decks and recognizes this new ordinance will not impact existing structures.
- Doug mentioned that decks on a full service restaurant can be looked at from a different perspective than a deck on a bar. Perhaps, the % of size could be different for each.
- The board agreed that trying to maintain or enforce all patrons to be seated would not work.
- They discussed the possibility of regulating the size of the deck and regulating the seating. For instance a 10' x 10' deck would be allowed with seating of 12 people or 3 tables - a percentage could be established.
- Patricia feels full service restaurants should be treated differently than a tavern or a bar. She also feels outdoor bars should not be allowed except for bars off the right of way. (Pool bars, etc.).

Reaching the 7 PM hour the board set dates and a time for the next meetings on this topic.

- January 7, 2009 @ 6 PM. (The board agreed to hold January 14th open, if needed).
- January 21 @ 6 PM with the regularly scheduled planning board meeting to begin at 7 PM.

Chairman Mastrantoni opened the Public Hearing for Duffy's Convenience Store change of use.

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DUFFY'S CONVENIENCE STORE

TAX MAP: 251.14-3-36

ZONE: COMMERCIAL MIXED USE

APPLICANT: LINDA DUFFY

SITE PLAN AND SPECIAL USE PERMIT REVIEW

- Chairman Mastrantoni opened the meeting for discussion of the outdoor café.
- Linda asked Dan Courtney to recuse himself because he has litigation pending against her and the Village of Lake George. Dan declined to recuse himself.
- Margy asked Linda how she was going to stabilize the fence. The fence will be stabilized by having a hole drilled into the pavement and a fencing bracket will be inserted, the square posts will be inserted into the hole. Posts are 4" x 4". The fence will be three feet high.
- The board discussed parking and where it should be located – on the right (north) of the outdoor café or the left (south). After a lengthy discussion Linda indicated she would not have designated parking; if she needs parking she can use the parking lot which is located behind The Bank Café and Duffy's Tavern. The layout of the café will remain as presented (with parking that was shown on the left/north).
- The board suggested the Village print a yellow line down the north side of Lower Amherst St. to enforce that there should be no parking in the area of the café.
- Dan Courtney asked about the square footage of the fenced in area; 65' x 58.4' = 3,796 sq. feet. There is an area at the northeast corner which is 22' x 18' that will be designated as a play area for children. Total square footage is 4,192'. Dan Courtney expressed concern over the size of the building (1,500 sq. ft.) in relation to the outdoor area and this is a concern the village is currently looking at. Robert reminded the board this application was in before the moratorium and Doug also reminded the board that the application has to be reviewed within the laws that are currently in existence.
- Patricia asked Linda if she had a stormwater plan. Originally, Linda had indicated she would install a dry well because she intended to hose down the café patio, however, since the village prohibits hosing down such areas she will not be installing the dry well and a stormwater plan is not required. Doug advised the board that a stormwater plan is not required under the existing code. After some discussion Linda agreed to install dry well(s).
- The board discussed the lighting which will be used in the café. Linda indicated her rendering shows the new lights which will match the design of the lights used by the village. There will be 6 lights with the possibility of a 7th on the corner.
- The play area on the northeast corner will be covered with a canopy.
- The board discussed the landscape plan. The rendering also shows the planters which will be used throughout the café. The larger tree will be a shade tree.
- The sign will be the same as the sign which is currently installed for the convenience store. Linda indicated she intends to use the same size and colors and just replace the panel.
- The capacity, including all tables, benches and chairs is approximately 115.
- The fence will be wood and stained to match the building. There will be new cedar siding on the existing convenience store replacing the current grey wood. The brick will remain.
- Hours of operation will be 11 AM to 11 PM depending on activity.
- There will be no alcohol served.
- Robert asked if there was any public comment.
 - ??? name – asked if underground storage tanks will be removed. Yes.

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- Jackie Freihoffer – spoke regarding the installation of dry wells for stormwater control. She feels any time there is an opportunity to protect the lake regardless of whether or not there is a requirement to do so the lake and community should be protected.
- The board reviewed the short form SEQRA Part II.
 - A = no.
 - B = no.
 - C-1 = no.
 - C-2 = no
 - C-3 = no
 - C-4 = yes, there is an intensity change, however, it is not significant and it's for the betterment of the environment as the gas tanks will be removed.
 - C-5 = no.
 - C-6 = no
 - C-7 = no.
 - D = no.
 - E = no.
 - Over all, there is no significant adverse environmental impact.

MOTION: Robert made a motion for a negative declaration with regard to the SEQRA noting that C-4 is answered yes because there is a change in the intensity, however, it is not significant and is for the betterment of the environment.

2ND: Dan Garay

Robert Mastrantoni	Dan Courtney	Margy Mannix	Patricia Dow	Dan Garay
Aye	Aye	Aye	Aye	Aye

At this point Robert closed the public hearing.

MOTION: Patricia Dow made a motion to approve Duffy's change of use from a gas station to a restaurant, ice cream and information center. The fenced in area will be 58.4 feet by 65 feet. There will be an additional area 18 by 22 feet shaded by a canopy. Gas storage tanks and pumps will be removed. There will be umbrellas on the round tables. Permeable surface will be 18 feet in diameter. The picket fence will be 3 feet high and secured by permanent footings in the pavement. The building will be covered with new cedar siding except for the brick area. The fence and building will be stained the same color. The gas sign will be removed. The current lighting will stay and then changed as soon as possible to the fixtures shown in the application literature; these lights are the same as the village lights. The sign will remain the same size and same color, however, the lettering will be changed to Duffy's Corner Café. There will be twelve 6-foot rectangular picnic tables. There will be five 6-foot round picnic tables. Total capacity is approximately 115 people. There will be 3 benches and 7 Adirondack style chairs. There will be no parking. Landscaping will be as shown on the drawing dated December 11, 2008 - showing 10 large arborvitae, 9 smaller shrubs and one large tree. No alcohol sold or consumed. Hours of operation will be 11 AM to 11 PM. 2 dry wells will be installed.

2ND: Dan Garay

Robert Mastrantoni	Dan Courtney	Margy Mannix	Patricia Dow	Dan Garay
Aye	Aye	Aye	Aye	Aye

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At this point Patricia Dow recused herself from the meeting.

Robert reminded everyone Holly Raj Inc. is a continued public hearing.

HOLLY RAJ INC

TAX MAP: 251.18-3-71

ZONE: COMMERCIAL RESORT – OVERLAY

APPLICANT: DAN RYAN – VISION ENGINEERING (for Holly Raj Inc.)

- Carol provided the board with a letter submitted this evening from Chris Navitsky, Lake George Waterkeeper (Attached Exhibit 2).
- Dan Ryan from Vision Engineering along with Attorney Stephanie Bitter were in attendance representing the owner of the property.
- Dan Ryan mentioned that at the October meeting there was an agreement that four topics needed further resolution or review. They were sewer capacity, noise confirmation, traffic safety for the loading and unloading area and stormwater design.
- Subsequent to the October meeting the Village Sewer Department verified that sewer capacity is available for village residents and village properties. Robert polled the board members to determine if they feel this issue has been resolved. The board is comfortable with the Sewer Department finding.
- Stormwater design – Dan Ryan referred to Dave Decker's review and his ultimate determination that the design complies with the code and is satisfactory. Robert introduced Chris Navitsky's letter and asked Chris to address the board. Chris indicated he feels the project is a major project and the plan does not meet the requirements of a major project as specified by the code. Chris pointed out that when a site is being redeveloped then it should address the first ½ inch of runoff of the first flush from all impervious pavement. He asked if this has been addressed. Chris added when the property is redeveloped the plans show landscaped areas which could be worked into the stormwater treatment system to improve the stormwater in that area.
 - Dan Ryan responded that they have tried to incorporate as many provisions as possible recognizing this area is in the Lake George basin. He added they did look at the code requirements and cost effectiveness. They have provided a large infiltration device; the sump and filter will help with sediment and grease/oil – he feels the measures they will install are adequate. Dan pointed out he doesn't feel there is pollutant generation on this site. There is no parking so there will be no pollutants discharged from vehicles. This is a seasonal operation so there will be no pollutants generated from clearing the area and adding wintertime salt and sand.
 - Dan pointed out they are only disturbing 11,000 square feet which according to the code is a minor project. In any event they would not exceed the 15,000 square foot requirement. Doug agreed this is a minor project.
 - Dan Ryan added the design calculations and infiltration device used comply with the major requirements as they have tried to provide an added level of protection for Lake George.
 - Robert asked the board members if they are satisfied with Dave Decker's report. The board indicated they are satisfied.

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- Dan Ryan addressed the issues regarding the noise study. (Note – these studies have not been completed due to inconclusive information on exactly what is to be studied.) The entire deck capacity is 250 however, there could be a concentration of people on the Beach Road side in areas where the deck would provide for a large number of people to be located.
 - Discussion regarding noise and a noise study focused on:
 - How far will noise travel – up the lake and backstreets.
 - Is the added vestibule, acoustic wall block, window design satisfactory to temper the noise inside (people and bands) from filtrating to the outside? Construction techniques have been implemented which are intended to dampen noise.
 - There will be no outdoor entertainment.
 - Other outdoor noise sources should be taken into consideration.
 - Time of year makes a difference.
- Attorney Schachner advised the board a noise study should be requested if the board deems it necessary; a study shouldn't be required simply because the public has requested it. The board should decide if they want a noise study and the board should decide the parameters.
- Dan Courtney indicated his concern all along has been noise coming from the property – inside and/or outside.
- Robert polled the board as to whether or not a study should be done. All members agreed a study should be done.
- Jan Loonan – As she is sitting here listening to the issues regarding noise she is wondering why the petition containing over two hundred signatures against this project, noise is just a small part, the whole thing is a mess - doesn't it matter that the village residents have spoken? She understands the board needs something legal in order to stop the project – on a good weekend if there are 500 people using the restrooms the lake will be impacted.
- Dan Ryan questioned how the study could be accurately depicted if the consultant isn't aware of other noise being generated in the area i.e. Thursday night fireworks, outdoor entertainment at neighboring bars etc.
- Patricia Dow speaking as a public citizen and not as a board member – the noise issue comes up at night when a lot of the other background noise has died down. She feels it makes sense to just deal with the noise generated from the property itself and not include other background noise.
- The study should include:
 - Entertainment and crowd noise for the interior and exterior.
 - Dan Ryan requested that live entertainment outside be analyzed as well; even though they have agreed not to have outdoor entertainment it may have been unnecessary for them to make the concession.
 - Outside noise – large crowds on the deck. Maximum number of people and capacity is stated in the plans.
 - Inside noise – inside noise traveling out.
 - Outside sources of noise (not generated on the property) should be taken into consideration.
 - How far will the noise travel and at what decibel.
 - Different times of the day should be analyzed because background noise will vary. Tavern will be open from 11 AM to 4 AM and will have indoor entertainment during the evening hours.
 - Study should address whether or not the project complies with the noise ordinance and recommendations should be provided if the study indicates the plan does not comply.
- Traffic study – loading and unloading on Beach Rd. Previously a concern was expressed relating to traffic safety - if there is a service delivery occurring in the two lane proportion of the highway. The Creighton Manning proposal appears to be an entire traffic study. A discussion ensued regarding why a study is necessary when loading and unloading occurs on every business street in the village.

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Dan Ryan reminded the board they have added a staging area in the area of the current arcade entrance. This area will allow supplies to be dropped off in the storage area and retrieved later by employees. This process will allow a truck to load and unload more quickly. Unloading in this manner does not require delivery to the actual area of use which is done for many establishments. The board agreed a traffic study is not needed.

- Patricia Dow speaking as a public citizen and not as a board member – asked whether or not elevations from Beach Rd. were provided. She recalled in July, Vision Engineering had agreed to provide these elevations. Dan Ryan responded indicating a photo had been provided from the east side (from Ft. Wm. Henry – Towers Hall) heading along Beach Rd. He was able to determine from the large buildings, the forest and the large hill, much of the new building would not be seen. Patricia indicated she did not feel a photo was the same as a drawing showing what the new view will look like. The board agreed a black line drawing should be submitted.
- The public hearing remains open.

MINUTES

MOTION: Robert made a motion to approve the August 2008 minutes.

2ND: Dan Garay

Robert Mastrantoni	Dan Courtney	Debbie Tirri	Patricia Dow – all except Holly Raj	Dan Garay
Aye	Aye	Aye	Aye	Aye

MOTION: Robert made a motion to approve the September 2008 minutes.

2ND: Dan Garay

Robert Mastrantoni	Dan Courtney	Margy Mannix	Debbie Tirri	Dan Garay
Aye	Aye	Aye	Aye	Aye

MOTION: Robert made a motion to approve the October 2008 minutes.

2ND: Margy Mannix

Robert Mastrantoni	Dan Courtney	Margy Mannix	Patricia Dow – all except Holly Raj	Dan Garay	Debbie Tirri - Holly Raj only
Aye	Aye	Aye	Aye	Aye	Aye

MOTION: Robert made a motion to approve the November 2008 minutes.

2ND: Margy Mannix

Robert Mastrantoni	Dan Courtney	Margy Mannix	Patricia Dow – all except Holly Raj	Dan Garay	Debbie Tirri - Holly Raj only
Aye	Aye	Aye	Aye	Aye	Aye

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MOTION: Robert made a motion to adjourn this meeting.

2ND: Patricia Dow

Robert Mastrantoni	Dan Courtney	Margy Mannix	Patricia Dow – all except Holly Raj	Dan Garay	Debbie Tirri - Holly Raj only
Aye	Aye	Aye	Aye	Aye	Aye

Meeting adjourned.

Respectfully submitted,
Carol Sullivan
January 2, 2008