

## **APPROVED**

## **LAKE GEORGE VILLAGE 26 OLD POST ROAD FEBRUARY 18, 2009 PLANNING BOARD MINUTES**

### **Board members present:**

Robert Mastrantoni, Dan Courtney, Margy Mannix, Dan Garay, and Debbie Tirri

### **Board member absent:**

Patricia Dow

### **Others present:**

Doug Frost (Code Enforcer) and Debra McKinney (Secretary)

## **PROPOSED ZONING CHANGES – 6 PM**

Chairman Mastrantoni called a meeting to discuss proposed zoning changes to order at 6:08 PM.

- Robert Mastrantoni suggested that they continue discussion from the last meeting about the menu boards. He brought in a Food Service & Supplies catalog with menu boards in it and suggested an enclosed board. There was one in the catalog measuring 24" x 36" that would work. It would fit a good sized menu. He thought a menu board would be better than soliciting on the street. The Board needs to agree on a size. Robert suggested that sidewalk cafes and restaurants should be allowed the same size board.
- Dan Courtney demonstrated a size with four sheets of paper about four (4) sq. ft.
- Robert suggested staying away from the chalkboard type boards.
- Doug Frost checked the law for boards allowed for sidewalk cafes. The Board must have no illumination, be no larger than six (6) sq. ft. with no one dimension larger than three (3)'.
- The Board discussed and agreed upon a menu board with a maximum size of four (4) sq. ft. including the frame.
- The next issue to be decided is whether the menu board should be attached to the building as opposed to a free standing board on a pedestal on the owner's property. Buildings with no setbacks would have to have the board attached to the building. Different types of free standing signs were discussed.
- The Board agreed that a menu board could be attached to the building or a railing. They also agreed that the boards can be lit with a covered overhead fixture with a 15 watt bulb.
- It was mentioned that A-frames signs are still allowed off season. The Board noted that there are at least two new A-frames out – the Ali Baba and the Bakery. It was agreed that as long as their sign permit is pending; they will be allowed to keep them out.
- Doug noted that an e-mail was received from Angevine Acoustical Consultants stating that, "At present the data we have is very limited and scenarios may not be exactly comparable." In other words, models are not available. Planning Board members received a copy of this e-mail. The Board needs to decide whether to pursue the sound study further or not.
- Doug reported that he and Carol Sullivan researched the law on service windows. The law, as written, is very restrictive, and they have deduced that it will not affect the Mastrantoni application as their window is on the business' property.

**APPROVED****LAKE GEORGE VILLAGE  
26 OLD POST ROAD  
FEBRUARY 18, 2009  
PLANNING BOARD  
MINUTES**

Chairman Mastrantoni closed this portion of the meeting at 6:52 p.m. and moved downstairs and opened the regular planning board meeting at 7:00 p.m.

The following arrived for this meeting: Mark Schachner (Village Attorney), Clare Decker, Mary Alice Leary, Jim Gillespie, Chris Navitsky, Kitty Rooney, Ellen Breslin, Sean Doty, Mike Farrell, and Dan Ryan

**TD BANKNORTH – SIGN APPLICATION****350 CANADA ST****TAX MAP: 251.14-3-32****ZONE: COMMERCIAL MIXED USE**

- Jim Gillespie of Image Resource Group represented TD Bank in their request to reface their existing sign for a name change. The sign is zoning compliant.
- Sign design, lighting, and colors are the same as TD Banknorth. The colonial style post will remain; just the inside will be changed.

**MOTION:** Dan Courtney made a motion to accept the TD Bank sign as per the application submitted.

**2ND:** Margy Mannix

Robert Mastrantoni	Dan Courtney	Margy Mannix	Dan Garay	Debbie Tirri (alternate)
Aye	Aye	Aye	Aye	Aye

Ayes – 5

Motion carried.

**BOCA VIVA (PREVIOUSLY MRS. B'S) – SIGN APPLICATION****42 AMHERST****TAX MAP: 251.14-2-1****ZONE: COMMERCIAL MIXED USE**

- Robert asked applicant Sondro Ribeiro to explain his request. Mr. Ribeiro said that the new business, Boca Viva, is a family place offering espresso and coffees from Brazil and will be featured in the Espresso magazine.
- He has submitted an application for a simple sign measuring 10 feet x 2.5 feet x 1" thick for a total of 25 square feet. The sign will be constructed of two pieces of oak with raised white lettering. It will be placed where Mrs. B's sign was – above the awning with the existing lighting.
- Robert asked about the "drink and food" text and Sondro explained that it is the non-Americanized version.
- Dan Garay suggested a decorative raised border on the sign.
- Dan Courtney suggested that the sign would have more character with rounded as opposed to square edges. He also asked about how the back of the sign would be treated.
- Robert noted that the existing lighting will remain.
- Sondro agreed that a border would be nice. He suggested a small non continuous border about 1 ½" from edge and running 9' on the top and bottom, and 1 ½' on the sides. He also noted that the back of the sign will be protected with a clear coating.
- The Board was happy with the colors.

**APPROVED****LAKE GEORGE VILLAGE  
26 OLD POST ROAD  
FEBRUARY 18, 2009  
PLANNING BOARD  
MINUTES**

**MOTION:** Dan Courtney made a motion to accept the Boca Viva “drink and food” sign with an oak background with a clear finish based on the revisions discussed. The revisions include that the sign have rounded versus squared edges and a non continuous decorative rounded border off from the edge – 9’ across the top and bottom, 1 ½’ up and down the sides.

**2ND:** Dan Garay

Robert Mastrantoni	Dan Courtney	Margy Mannix	Dan Garay	Debbie Tirri (alternate)
Aye	Aye	Aye	Aye	Aye

Ayes – 5

Motion carried

**LOCHLEA PARTNERS LLC - SUBDIVISION**

**TAX MAP 251.11-2-1**

**ZONE: RESIDENTIAL**

**APPLICANT: LOCHLEA PARTNERS LLC**

**SITE PLAN APPLICATION 09-04**

**SKETCH PLAN REVIEW**

- Sean Doty of Chazen Company representing Lochlea Partners explained that they are two parcels, one 4-acre parcel located in the Village and one in the Town. They are proposing a 4-lot subdivision of lands located in the Village. Currently there are two homes located there; eventually they would like to add two more, but this application is for subdivision approval only.
- Sean explained that the existing homes are currently served by Village sewer. Village water supplies four of the five current homes.
- Dan Garay inquired as to the size of the proposed homes? Sean replied that the two additional homes will be about 2,000 sq. ft. each
- Dan Courtney confirmed that the additional homes are not proposed yet and that the Board is just looking at the subdivision of the lots which conform at 10,000 sq. ft. each.
- Margy Mannix confirmed that the setback from the stream will be 50’
- The bridge over English Brook which is the boundary between the Town and Village is an existing structure.
- Doug Frost reported that the Town is requesting to be lead agency for the SEQR review, which is inclusive of the whole property. If the Planning Board agrees and with Attorney Mark Schachner’s advice, the Village could accept the Town’s SEQR review. The proposal impacts property on the Town’s side more than the Village; and the owners have done a lot to keep the open green space.
- Sean continued and described the sewer plan in detail including the grinder pumps and low pressure system.
- Doug spoke with Village Waste Water Treatment Plant Operator Reginald Burlingame about the subdivision. Mr. Burlingame agreed that the Village will allow the new homes to hook up to the Village sewer system. However, the Village is not willing to take over the entire low pressure system.

**APPROVED****LAKE GEORGE VILLAGE  
26 OLD POST ROAD  
FEBRUARY 18, 2009  
PLANNING BOARD  
MINUTES**

**MOTION:** Margy Mannix made a motion to accept site plan review plan for the proposed subdivision as is for submittal to Warren County and full Site Plan review will take place on March 18, 2009.

**2ND:** Robert Mastrantoni

Robert Mastrantoni	Dan Courtney	Margy Mannix	Dan Garay	Debbie Tirri (alternate)
Aye	Aye	Aye	Aye	Aye

Ayes – 5

Motion carried

Attorney Mark Schachner arrived at 7:40 p.m.

- Doug asked for Mark's opinion as to allowing the Town to be lead agency for the Lochlea SEQR. Attorney Schachner advised that if the Village is comfortable with another agency acting as SEQR lead agency and that they will take into account the entire property and they have to by law, the Village has the legal right to allow the town to be the lead agency on the SEQR. The other choice is to fight the Town on that and assert our own desire to do the SEQR to review the entire property. Only one lead agency is allowed. The Planning Board just needs to approve a resolution allowing the Town to be the lead agency for SEQR on the proposal for the entire property.

**HOLLY RAJ INC**

**TAX MAP: 251.18-3-71**

**ZONE: COMMERCIAL RESORT – OVERLAY**

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

- Public hearing remains open.
- Robert opened the discussion and referenced an e-mail (Exhibit #1) from Angevine Acoustical Consultants to Carol Sullivan which the Board received copies of. Originally the Board was hoping to utilize their model assessments as noted in the proposal, but according to Daniel P. Prusinowski of AAC, "At present the data we have is very limited and scenarios may be not be exactly comparable." Robert mentioned that they were the only company available at this time.
- Robert noted that since there are no models available, the noise study would need to be completed during the summer for accurate measurements.
- Dan Courtney reiterated that the Board had previously decided that the study should be done and should consist of items 1 and 5 and if necessary, item 3 of AAC's proposal dated January 13, 2009. (Exhibit #2)
- Dan Ryan noted that they are not in agreement that a noise study is necessary. They've put a lot of time and effort into designing this project and incorporating several mitigation measures to help prevent noise from becoming a nuisance or having any significant impact. He referred to an excerpt from a DEC publication, The DEC Policy System (Exhibit #3) specifically "#2 Situations in Which No Noise Evaluation is Necessary. This states that, "When certain criteria are satisfied, the need for a noise impact study is eliminated." He noted that the site falls within an area in which local zoning provides for the intended use as a "right of use". The excerpt states, "Where activities may be undertaken as a 'right of use', it is presumed that noise has been addressed in establishing the zoning." This is a very well

## **APPROVED**

## **LAKE GEORGE VILLAGE 26 OLD POST ROAD FEBRUARY 18, 2009 PLANNING BOARD MINUTES**

fitted argument for this project which is in an intensively used commercial zone. They still stand by all the data and calculations that have been presented. This project has been reduced from a noise impact standpoint, and it is the best project that they can propose.

- Mark advised the Board to be careful in adopting the applicant's argument on that sub issue. A use as of right is a use that is allowed without any discretionary approval. The proposed use is not legally a "use as of right" it is an allowed use in the zone but being an allowed use in the zone is subject to site plan review which is different than "use as a right". There is legal distinction between an 'allowed use' and a "use as of right" with the "use as of right" not requiring any discretionary approval. The "allowed use" subject to discretionary approval is what we have before the Board. He strongly disagrees with the applicant's contention. If you chose to ask for a noise study, you are not in contradiction with DEC guidelines.
- Dan Courtney reviewed the vendor's proposal and what the Board had actually decided to ask for. The Board discussed how many trips would be necessary to conduct the study.
- Margy still thinks this is a critical study especially with the second floor establishment with acoustics projecting towards the residential area.
- Robert doesn't agree with going through the expense and delay of having to wait for summer for this study. The consultants will be very costly and this cost needs to be justified.
- Dan Courtney said that Lake George is unique. There are no models.
- Robert noted that the applicant has made changes over and over. We have laws in the books to protect take care of this.
- Dan Ryan pointed out that in the interest of protecting their client AAC has misrepresented themselves. They listed several references and now they say they don't have models. The consultant needs a good average that represents the most common occurrences in the Village which could possibly take several trips.
- Dan Courtney suggested that an accurate study could probably be done in a four-day period.
- Robert inquired that if the consultants were here for four days what would the cost be?
- Dan Courtney mentioned that the noise study cost on a project that could totally alter our Village is minimal compared to the total cost of the project. It is expensive, but he feels it is critically necessary.
- Margy noted that once it's built it's here forever.
- Dan Courtney pointed out that the Board already said that they wanted to do the study. How can they approve it without showing due diligence.
- Dan Ryan asked if they thought the noise projection would penetrate the residential district. The firm has provided a lot of mitigation and done a good job of evaluating noise for the last 14 months. Yes, it is a larger facility than all of the other ones in the Village but what's the difference if there are 4 or 5 bars right next door to each other that add up to the same size as this – very similar in that respect. They have put other things on the table as far as no outside amplification or entertainment. Those other things are additional measures that they feel really to do help to reduce the impact significantly. They are hoping that they can move forward without having to wait eight months.
- Mark mentioned that he has engaged noise consultants in his business and there may not be local firms, but there are several other qualified firms in New York State.
- Robert is concerned about hiring this company when we don't know their background and they've already changed their mind. If we're going to go ahead with this, we need at least another quote.
- Dan Courtney would like to see proposals from two more consultants. He wants more options. He would like them to come here so we can ask questions.

## APPROVED

## LAKE GEORGE VILLAGE 26 OLD POST ROAD FEBRUARY 18, 2009 PLANNING BOARD MINUTES

- Dan Ryan said that this company doesn't seem to be appropriate for what we need right now. They've presented the information, the question is how accurate is their information compared to an independent study. A good analysis is going to take someone that has a lot of experience and someone that knows the area.
- Doug suggested that we take time out and look for another consultant to give you another option and do the noise study. If that fails, then we could fall back on AAC which would do the actual study in June or July.
- Dan Garay would like to consider another consultant possibly located closer.
- Dan Ryan suggested that an RFP be drafted specific to this project so that all of the consultants are quoting the same thing. They have mitigated the primary concerns, they do not want to have a negative impact, have gone up and beyond where every other tavern in the community is allowed – having a disadvantage from the start.
- Margy is concerned about the impact on the residential back streets not wanting to be a part of the downtown noise. She noted that the Board previously agreed that they wanted a noise study and the applicant seemed to be OK with it.
- Dan Ryan stated that their position is that they do not think a noise study is necessary. They do not agree.
- Robert polled the Board. Dan Garay asked for another proposal for a noise study; Margy also requested another proposal, along with Dan Courtney wanted one or two more; and Debbie did, too. Robert did not agree.
- Doug agreed to work on an RFP and try to find other consultants and have something for the next month's Planning Board meeting.

Mark left at 8:25 p.m.

At this point Robert Mastrantoni recused himself from the Board meeting.

A motion by Dan Courtney, seconded by Margy Mannix, carried unanimously to open a Public Hearing for the previously named Soprano's application at 8:27 p.m. **Ayes: 4 Motion passed.**

### **PREVIOUSLY SOPRANO'S – NEW NAME TBD – PUBLIC HEARING**

**155 CANADA ST.**

**TAX MAP: 251.18-3-40**

**ZONE: COMMERCIAL MIXED USE**

**APPLICANT: ROBERT AND CARMELA MASTRANTONI**

**SITE PLAN AND SPECIAL USE PERMIT REVIEW - #0902**

- A Special Use Permit is required as this building has been vacant for more than a year and is located in the Commercial Mixed Use zone. Restaurants in the CMU zone require a special use permit.
- Robert Mastrantoni submitted interior plans and a photo of the outdoor tables/chairs to the Board. He plans to put eight glass top tables with metal chairs outside. The interior seats 160 people.
- It was determined that the service window definition does not apply to this application. The window at this business opens onto its own property.
- Robert explained that the layout is the same as previously used with the same lights and security cameras. Waterfront Living owns the whole building with three businesses in it. The emergency exit goes behind Waterfront Living. Freezers are onsite, but pizza ovens need to be installed. A new name has been chosen, "MezzaLuna" and a sign permit application will probably be presented to the Board next month.

**APPROVED****LAKE GEORGE VILLAGE  
26 OLD POST ROAD  
FEBRUARY 18, 2009  
PLANNING BOARD  
MINUTES**

A motion by Margy Mannix, seconded by Dan Garay, carried unanimously to close the Public Hearing for the previously named Soprano's application at 8:35 p.m. **Ayes: 4 Motion passed.**

**MOTION:** Margy Mannix made a motion to approve MezzaLuna as a Special Use Permit for the new restaurant with outdoor seating with eight glass top tables with metal café chairs as submitted in the drawing, and it's been deemed that a service window may be used. Sign permit application to be presented next month.

**2ND:** Dan Courtney

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

Robert returned to the meeting at 8:35 p.m.

**MINUTES**

January 21, 2009 - Margy noted that there's a typo in "Garcia's" on the last page, 5<sup>th</sup> bullet of the January 21<sup>st</sup> minutes.

**MOTION:** Robert Mastrantoni made a motion to accept the minutes of January 21st with the correction noted..

**2ND:** Dan Garay

Robert Mastrantoni	Dan Courtney	Margy Mannix	Dan Garay	Debbie Tirri
Aye	Aye	No vote	Aye	No vote

Ayes – 3 Motion carried

The January 14<sup>th</sup> minutes were tabled until all members could be present.

Robert asked for any old business. Dan Courtney noted that the Riley's sign was taken down, but t-shirts have been added instead.

A motion by Robert Mastrantoni, seconded by Margy Mannix carried unanimously to adjourn the meeting at 8:40 p.m.

Meeting adjourned.

Respectfully submitted,

Debra McKinney

February 20, 2009