

**APPROVED – 7/16/08**

**LAKE GEORGE VILLAGE  
JUNE 18, 2008  
PLANNING BOARD MEETING  
MINUTES**

VILLAGE ADMINISTRATION BUILDING – OLD POST ROAD

**Board Members present:**

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

**Board members absent:** None.

**Others present:**

Doug Frost (Code Enforcer), Carol Sullivan (Secretary), Mark Schachner (Attorney for the Planning Board), Dan Brown (Architectural consultant for the Planning Board), Md. Alam, Mohammad Barat, Jim Miller, Maryalice Leary, Mitch Lezi, Dan Ryan, Carmela Mastrantoni, Rajiv Sharma, Paul McMenamin, Jon Lapper.

Chairman Mastrantoni called the meeting to order @ 7:05 PM.

**DESHI MASALA – Indian restaurant next to the Sicilian Spaghetti House**

**375 CANADA ST**

**TAX MAP 251.14-2-6**

**SIGN APPLICATION AND UMBRELLA USAGE**

- Milan (Md. Alam) presented two signs for the Board's review. One has a dark (almost black) background, green border, "Dehsi Masala" in white and "Indian Cuisine" in yellow. The other submission is identical but for the background which is a deep red.
- Milan explained he preferred the darker sign, however, he understands the Board's preference to have signs blend with the building color(s).
- The sign will be located on the building above the windows.
- The lighting is the existing lighting (2 flood lights) which will point up to the sign.
- The awning will remain and Milan would like approval to use two umbrellas in the area which is not covered by the awning.
- The Board agreed the sign with the red background would best match the awning and the umbrellas.

**MOTION:** Patricia Dow made a motion to approve the sign with the red background and colors as presented and to approve the two red-ish umbrellas one to be used on either side of the patio, the awning to remain and the lighting for the sign will be the two floodlights facing upward onto the sign.

**2<sup>ND</sup>:** Margy Mannix

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

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**VILLAGER MOTOR INN**

**99 CANADA ST**

**TAX MAP 251.18-4-3**

**SITE PLAN 0820 – OUTSIDE DINING – GROUND LEVEL AND SECOND LEVEL  
REMODELING FRONT OF BUILDING.**

- Jim Miller (Northfield Designs), representing Mohammad Barat, showed detailed drawings of the redesign of the front façade as well as the ground patio and upper dining deck.
- Pointing to the drawings, Jim described the lowest floor terrace with a brick flooring system. At the ground level there will be a brick knee wall. This wall will vary from 30 inches high to close to 5 feet high. These varying heights coincide with the grade. Above the terrace there is an existing deck which will be expanded and doubled in size (using the diagram to point to the area). Jim mentioned the rendering depicted the colors which will be used; white vinyl siding and white vinyl trim. Jim also showed illustrations of the furniture which will be used. Green umbrellas will be used on the exposed portion of the upper deck. Jim also showed examples of plantings which will be flower boxes along the wall and hanging baskets on the upper deck.
- Robert suggested the Board focus on the deck construction first and then look at the plantings, furniture, etc.
- Jim explained to Margy the upper deck, when complete, will be “squared off”.
- Dan Brown pointed out the hand rail is shown as 3 feet high and Dan questioned if it should be 42 inches. Jim explained the railing will meet code.
- Dan Garay asked if the brick wall will be flat on top and Jim explained it will have a pitch to allow for water run-off. Dan mentioned it should be pitched enough to prevent someone from sitting on the railing. Jim mentioned there will be continuous flower boxes at this level; a higher wall would block the view when patrons are seated. Jim mentioned a higher more open railing could be installed.
- Margy Mannix asked if the new terrace area will come up to the edge of the sidewalk. Jim responded that it does but is within the property boundaries as the property line abuts the sidewalk.
- Robert pointed out the sidewalk area is very narrow at this location. He asked if consideration would be given to making the terrace smaller by one foot on the sidewalk side allowing for space between the sidewalk and the terrace. Jim indicated the plans could be modified to allow for a foot on the sidewalk side, however, there was a previous deck in this area and he is using the location of that deck. Jim asked if the Board would like to see a sidewalk in this space or plantings. The upper deck would be moved in one foot as well.
- Patricia Dow asked for the square footage of the top deck. Approximately 608 square feet.
- There will be an outside exit stair. The interior stair will be used for food delivery/clean up.
- Patricia Dow asked about the remaining permeable surface and if it will meet Village code. A discussion ensued regarding the permeable surface of the entire property. After reviewing an aerial view map of the property and buildings the Board agreed there was likely enough green space to satisfy the Village code.
- The discussion returned to the one foot sidewalk setback and how this area should be filled.
- Patricia Dow asked for the hours of operation. Jim asked if there is a time ordinance for deck operation in the Village and what other businesses are currently operating. No alcohol, no music.
- Dan Brown asked how the terrace and upper deck will be lighted. There are existing lights on the walls both at the terrace level and upper deck.
- There will be no umbrellas at the terrace level. The upper deck umbrellas will be plain, no logos, no advertising.
- Jim presented the Board with planting illustrations for the baskets and flower boxes.

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- For the record, Robert advised the Board that the Warren County Planning Board review resulted in “no County impact”.
- Jim advised the Board the seating capacity is 65 people on both floors.

**MOTION:** Patricia Dow made a motion to approve the application for the cement ground floor patio as shown except for one foot back from the Canada St. border and the upper deck to follow that one foot setback. Continuous flower boxes will be on the railing of the lower deck. The top railing will be at code height. The lighting on the walls will remain as shown as indicated in the pictures. Spotlights will be removed and no spotlights will be placed on the upper deck. Plain green umbrellas will be used. The tables and chairs as shown. Seating capacity is set for 65 maximum. These areas will be used for dining, there will be no music. The front of the building redesigned as shown. Green space was assessed to comply with the Village Code.

**2<sup>ND</sup>:** Robert Mastrantoni

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

At this point Robert Mastrantoni recused himself from the Board and asked Dan Courtney to act as chairperson.

**SOMEWHERE IN TIME**

**283 CANADA ST**

**TAX MAP 251.14-3-8**

**SITE PLAN APPLICATION 0822**

- Carmella Mastrantoni presented her proposed outdoor café expansion to the Board. She mentioned that she would like to “fill in” 2 steps, leaving a center stairway as the egress for the store. Filling in the 2 steps will make the new café area level with what she uses now for a café.
- The expansion will give her two (one on each side of the stairway) cafe areas 10 feet by 8 feet leaving about 5 feet for the stairway (3 steps)
- Carmella indicated she is going to install new railings (black) and the railing will be of a wrought iron design. The railing will also come up the steps.
- Carmella will add more flower boxes and greenery.
- The expansion will allow Carmella to add 3 more tables.
- Dan Garay asked how the cement in the front of the stairway will be covered. Carmella indicated she will paint it green and add some greenery.

**MOTION:** Dan Courtney made a motion to approve Somewhere in Time concrete deck with adding three more tables that will match the existing tables. The concrete will be poured and smooth on the sides and front. The front may be painted green matching the awning green. Black railing all around, matching the current side railing.

**2<sup>ND</sup>:** Margy Mannix

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

Robert Mastrantoni rejoined the Board at this time.

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**160 COOPER ST – SINGLE FAMILY RESIDENCE**

**TAX MAP 251.14-4-8**

**SITE PLAN APPLICATION 0827**

- 10' X 16' deck on single family residence.
- Mr. Norton showed the Board, using the pictures he provided, the location of the deck.

**MOTION:** Patricia Dow made a motion to approve the 10' x 16' deck at 160 Cooper St. Materials used will be those indicated in the application. The deck will not be covered. It extends 16' from the front door. There will be stairs on the end to a landing which has stairs to the driveway. There will be lattice work covering the bottom of the deck and existing cement stairs. The deck will be left unstained.

**2<sup>ND</sup>:** Margy Mannix

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

At this point Patricia Dow recused herself from the Board.

**HOLLY RAJ INC**

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

**ZONE: COMMERCIAL RESORT – OVERLAY**

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

- Dan Ryan of Vision Engineering represented Holly Raj and conducted the discussion on Supplement # 3.
- Dan Ryan spoke of the concerns relating to child safety and public safety regarding the entrances/exits for the amusement park area off Canada St. Dan Ryan explained the two egresses have been moved. One is now a 6 foot wide egress which is located by the proposed train ride (the train ride will be enclosed by fencing). With this location there is not a direct path to Route 9. To the north of the amusement park area, pointing to his drawing he showed the Board where the other egress has been redesigned. The distance and angle have been changed and there is not a direct path to Route 9. There is no gate, the walkway remains open. The northern egress is approximately 20 feet from the fencing. The amusement area will be "closed off" when it's not operating. There is no public access from the upstairs area to the amusement area; there is a service stairway which will be used by employees only. There will be an elevator in the back, the amusement area will be closed off but access to the elevator will be open. When the amusement area is not operational there will be minimal lighting for safety reasons. Dan Courtney asked if the power could be shut off and Dan Ryan indicated he would look into having the rides shut down when the park is closed.
- There are multiple cement pads throughout the amusement area which will house either one ride or more than one ride. The train ride and the carousel will be enclosed by fencing.
- The next topic Dan Ryan opened for discussion is the noise issue. Dan Ryan mentioned that Supplement #2 included information regarding noise for a facility which houses larger crowds, and provides live entertainment. In Supplement #3 Dan Ryan outlined the criteria and standards related to DEC and other guidelines. Dan Ryan mentioned the Village code allows for 75 decibels from 9 AM to 11 PM and 65 decibels after 11 PM. Dan Ryan mentioned the previous agreement; there will be no live entertainment or music outside of the building. Recognizing even though live entertainment and music are only allowed inside the building there will be some noise traveling to the outside of the building. Dan Ryan provided the Board with an example showing the range of noise in decibels for an amplified band with percussion. Dan Ryan mentioned this example would likely be the worse case scenario. He mentioned that data indicates the range level to be between 80 and

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110 decibels. Dan Ryan explained that the construction of the building and materials they are using will allow for a dampening of up to 50 decibels. The STC rating is 50 for the type of wall which is being proposed. Using this 50 decibel dampening Dan Ryan pointed out the decibel reading outside the interior walls would be 30 to 60 on the deck. Additional dampening would occur at the pedestrian or street level.

- Dan Ryan addressed a previous concern regarding large crowds of people. He pointed out there will be certain times of the year where the facility will be busier than other times of the year. He provided information based on study data for noise levels of large crowds. A facility similar to a restaurant or tavern with ambient background noise would provide a noise level of 70 to 75 decibels. Dan Ryan pointed out this example is again worse case scenario. With a capacity of 375 people for the entire facility this example would have to assume that nearly all the people are on the deck congregating in one spot.
- Dan Courtney asked how much of the building will be siding and how much will be windows and doors. Dan Ryan indicated the worse case scenario could be on Beach Rd. Pointing to his drawing he pointed out the doors and windows. The windows are 5 foot windows and therefore do not encompass the full height of the wall. He guess-timated the glass to be at about 30 to 40% glass (including doors and windows). Dan Ryan pointed out that windows and doors do have an STC rating, however, he did not know the rating for the proposed doors and windows. Robert asked if any thought had been given to having a vestibule so when one door opened another would close allowing less noise to escape. Dan Ryan indicated they could look into this suggestion. A discussion ensued regarding the validity of the dampening levels and the number of people congregating on the deck.
- Dan Ryan mentioned he can provide a more exact study of the noise levels of the facility which would include the space taken up by doors/windows. Robert asked the Board if they would like to see a more exact study and Dan Courtney indicated perhaps a noise expert could help. A discussion ensued regarding hiring an expert. Dan Ryan suggested if an expert is going to conduct an evaluation then he would like the evaluation to be conducted using the same standards as all other places in the Village. I.e. the evaluation for this facility should be conducted disregarding the items already agreed to. Attny. Schachner speaking to the Board suggested if the applicant is now removing the representations previously made regarding noise the Board should consider what representations are included and which ones are not. Attny. Lapper addressing the Board mentioned compromises have been made regarding the issue of noise. If, however, a scientific noise evaluation is to be conducted it may result in a noise engineer's evaluation to be favorable for outside entertainment. Attny. Lapper indicated at that point they could propose to change the project. Attny. Schachner advised the Board if a study is to be conducted then the Board needs to be specific as to what the study should involve and the project should be well defined on what the expert will study. Attny. Lapper stated at this point the proposal is for no outside entertainment but that could change based on the outcome of a noise expert's study. Attny. Schachner then advised the Board if it is determined that an expert study is needed then the study should be based on the current proposal. Robert polled the Board for whether or not a noise expert should conduct a study. Dan Courtney indicated he would like a study. Margy asked about the suggestion of a vestibule and Dan Ryan indicated that would only be included if the expert advised it. He added an expert would likely include ways to mitigate noise and those suggestions would be considered after the study is completed. Dan Garay mentioned he's satisfied with the representations the applicant has made. Margy expressed concern about "neighborhood" noise for the surrounding residents and patrons of surrounding hotels/motels. She added her concern is more for the late night noise but also added she felt the noise issues regarding DJ's were dealt with favorably and that Neptunes seems to have self imposed restrictions by closing their windows. Robert indicated he felt the applicant has tried to do the right thing by self imposing some restrictions and he is not in favor of a study. He added he would like to see a little more information as previously discussed. Dan Ryan indicated he would provide more

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detailed information and would look to see what types of windows are available which allow for noise mitigation.

- Dan Ryan began addressing the concern regarding service delivery options. Dan Ryan mentioned he contacted the County because the road is a County road. He spoke with Jeff ? (tape inaudible) at the County and the County has agreed to review the project specifically to the loading and unloading concern. Jeff expressed a concern regarding the close proximity to the intersection of Route 9 where loading and unloading will take place. Dan Ryan indicated loading and unloading would take place about 140 feet from the intersection at the northeast corner of the building. Dan Ryan is waiting for word from the County. Dan Ryan mentioned the County may defer to local traffic law and he believes the Village does not out law any standing or stopping on any street in the Village.
- Dan Ryan moved to the next topic of concern – refuse. He pointed out that the last Supplement #2 provided additional information. The area for storage has been adjusted in layout and size to provide for extra space in case it's needed. Pointing to Section 5 in Supplement #3, 24 ninety-gallon garbage containers will be used. 24 ninety-gallon containers is the equivalent of a 10.7 yard dumpster. Dan Ryan has had discussions with Waste Management who provides service to many businesses in the Village. According to Waste Mgmt. similar facilities use an 8 yard dumpster. Most of the businesses are picked up once a week. Recognizing this facility is larger it will use the equivalent of a 10.7 yard dumpster and calculating the difference (3x larger than other facilities) Dan Ryan determined the facility would need a pick up on a 3 to 4 day cycle. Waste Mgmt. also provides for "on call" pick up, if needed. Dan Ryan indicated the applicant is willing to contract with Waste Mgmt. for daily pick up if necessary. Dan Courtney pointed out Waste Mgmt. does not pick up on Sat. and Sun. A pick up can be made on Fri. morning and weekend garbage could be 75% of the weekly garbage that is generated. He added, using the 3x larger factor that would result in about 24 yards of garbage. If 75% of that would be generated on the weekend (Fri., Sat. and Sun.) that's 18 yards of garbage in a 10.7 yard dumpster. Dan Ryan mentioned he wasn't sure of the 75% figure and maybe it's possible to have a pick up later on Fri. or on Sat. if Sat. is a possibility at an extra fee. He agreed he would look into this.
- At this point Dan Ryan indicated the Site Plan has only been revised based on the discussions that have taken place with the Board. The Site Plan he presented tonight would be considered the final Site Plan. Dan Ryan went over the items which he will research and prepare for the next meeting:
  - More evaluation on the exterior walls in sound reduction. The weighted average will include windows, doors and walls.
  - Door and window options will be reviewed for noise reduction. Dan Brown pointed out an improved one door system may be better for practical and safety reasons then a two door vestibule system.

At this point Patricia Dow rejoined the Board.

**DECKS – REVIEW NEW LOCAL LAW**

The following comments were made.

- Add definition of outdoor deck to zoning definitions.
- Add a "cushion" so that the deck is not on the property line, especially a second floor deck. Robert expressed concern for safety and indicated there should be a buffer. Set back standards would have to be looked at. Patricia indicated she believed the intent of a zero set back was building to building, however, a deck in particular a second story deck can pose problems with regard to liability and property damage. Consideration should be given to the adjoining property owner. A discussion ensued regarding the set back requirements.

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- Looking at the draft, a proposal is made for 20 or 30 feet from the Village's right of way. The number of feet hasn't been decided. Doug asked how the 20 or 30 foot setback affects the Village's Sidewalk Café law which allows sidewalk cafes on the Village property. He added it seems inconsistent to tell a property owner who wants to put a deck on his/her property that the deck has to be 20 or 30 feet back from a Village right of way yet the Village allows sidewalk cafes on Village property. Doug mentioned the Village promotes outdoor cafes by allowing them on Village property yet it appears they are not promoting outdoor decks on the property owner's property because there will be a setback requirement. Doug asked how this new law would affect an existing deck. Do the existing decks now become nonconforming according to the code? He added a setback requirement seems to go against what the Village has been trying to promote which is making outdoor cafes an integral part of the Village.
- Patricia Dow indicated she didn't have a problem with first floor decks, however, second floor decks pose a greater potential for problems with the neighboring properties. She added the Village protects itself (ins. requirements have been set) when it allows the deck on Village property.
- Doug also commented on the requirement regarding food service. The kitchen may not be open when people may be on the deck. It appears the proposal is stating once the kitchen is shut down the deck is shut down.
- Robert agreed that the 20 or 30 foot setback seems to go against the idea of allowing sidewalk cafes. He pointed out he feels having sidewalk cafes has been a positive experience in the Village. He added he feels a setback of 5 feet would be acceptable for second floor decks. Dan Courtney suggested a couple of feet would be acceptable for ground level decks. A couple of feet allows for footings to be on the property owner's property and not within the Village sidewalk area.
- Dan Courtney suggested stating Village property line or Village right of way whichever is closer to the building.
- Margy asked whether or not a new law would be retroactive. Attny. Schachner advised the Board the Village Trustees should include in the resolution approving the local law specific language indicating at what stage this law kicks in. He advised that existing decks have vested rights however, the Trustees can determine if it applies to new matters not yet applied for or matters applied for but applications not deemed complete. He added vested rights in NY law accrue and mean a right to be grandfathered and vested rights accrue once someone is building something.
- Dan Brown pointed out there is no height restriction in the proposed law. In other words it could be flush with the ground, any number of inches above the ground or any number of feet above the ground. The law as currently written allows for multiple decks. Robert suggested 2 levels (first/ground level and a second level) as the maximum.
- Dan Courtney turned the discussion back to setback requirements. The Board recommended 5 feet on front and side.
- The discussion turned to the requirement of allowing the deck to be no bigger than 20% of the building footprint. The Board agreed this requirement was reasonable.
- A discussion ensued regarding the food service requirement. Doug indicated this would be difficult to enforce; a business could keep one fry-o-later on. He added it's expensive to keep staff on and equipment on simply for keeping a deck running. Dan Courtney pointed out the proposal states a full service menu, however, full service menu is not defined. The Board suggested a late night menu or some reduced menu. Dan Courtney suggested changing the language to food service menu. Robert asked what happens with existing decks. This would affect new decks only.
- Dan Brown pointed out the state code only requires railings when there's a difference of 18 inches or more from ground level to the deck. The Board agreed railings should be required.

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- Attny. Schachner summarized:
  - Move the definition of deck to the zoning definitions.
  - Change 20/30 foot setback to 5 feet from the Village property line or right of way whichever is closer to the building.
  - Indicate a 5 foot minimum setback for the side of the building.
  - Change full service menu to “food service menu provided and available during all hours”, etc.
  - Maximum height will be 2 story, first story will be ground level.
  - Railings will be required.
- The dimensional table should be reviewed for necessary changes. Perhaps a footnote will be needed.

**MINUTES – DEFERRED TO THE NEXT MEETING**

APRIL 16, 2008

MAY 21, 2008

**MOTION:** Robert made a motion to adjourn the meeting.

**2<sup>ND</sup>:** Margy Mannix

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

Respectfully submitted July 1, 2008

Carol Sullivan