

Regular meeting of the Village of Brockport Planning Board was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Tuesday, Nov. 12, 2013 at 7:00pm.

PRESENT: Chair Arthur Appleby, Vice Chair Charles Switzer, Member Kevin McCarthy, Member Laurie LoMonaco, Building/Zoning Officer Scott C. Zarnstorff, Clerk Pamela W. Krahe.

EXCUSED: J.P. Schepp of Chatfield Engineers

ALSO PRESENT: Byron Ariyaratnam, Chris Ariyaratnam

CALL TO ORDER: Chair Appleby called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Appleby noted one correction and then called for a motion to approve the minutes of the previous meeting.

➔ Member McCarthy moved, Member Switzer seconded, unanimously carried to approve the minutes of October 15, 2013 as amended.

CORRESPONDENCE: None

PUBLIC HEARINGS: None

NEW BUSINESS:

1. Application of: Name: Byron Ariyaratnam for Yo Twisters Frozen Yogurt
 Address: 21 Main Street
 Tax Map #: 069.53-1-26
 Zoning: B-Business
 Parcel Size: 24' wide x 117.7 deep
 Prop. Class: 481
 Purpose: Alteration to existing space

Presentation/discussion:

Mr. Ariyaratnam referred to the business plan and floor plan submitted with his application. He noted the frozen yogurt will be self-serve, there are 15 flavors, 20 toppings, and will be sold at 46 cents per ounce. Customers will fill a cup as desired then pay. He referred to submitted photos of their Batavia store.

No changes are planned to the exterior of the building. There is a sign there which will be used as a template for a new sign. They will come up with a design, get Historic Preservation Board approval, and obtain a permit.

Changes to the interior include repainting to match the paint scheme in Batavia, and setting up the machines and their facades similar to Batavia. The yogurt machines are air-cooled, not water-cooled. The toilet and sink will be replaced in the bathroom. It is not known if the bathroom is ADA compliant, but it may not have to be as the shop is not going to be a "restaurant." The bathroom would be primarily for employees. Both a three-way sink and a mop sink will be added. Flooring will be a laminate. They will be in touch with the Health Department and Weights & Measures to have them come through as necessary.

The initial floor plan showed 3 tables, but there is only room for 6 stools. The applicants have found that customers usually want to purchase their yogurt then leave. The board asked how many square feet the building is and Mr. Ariyaratnam said he has taken measurements but didn't have them with him.

Garbage at the Batavia store consists of about 6 bags of cups and spoons a week, and Brockport will have fewer seats, so they don't expect quite as much. His partner will pick up garbage daily. The property owner does not have a dumpster but the neighboring pizza shop does. The area behind those buildings is tight for a dumpster, and if totes are used, they must be screened from view. The yogurt is a Perry's product. It thaws for 72 hours before use. Deliveries come through the back door.

Employees will park in the Water Street lot; it is estimated customers will park on Main Street or in the Water Street lot, but much of the traffic will be walk-in. The store is expected to open between February and March 2014. The applicant may put a see-through decal in the window as they have in Batavia, keeping it clean and simple.

Applicant will hire an electrician to set up the machinery; the Building Inspector will inspect. Security cameras will be in place in the store.

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- ➔ Member LoMonaco moved, Member McCarthy seconded, unanimously carried to approve the application.

OTHER BUSINESS:

- Workshop Topic: Change of Use. Vice Chair Switzer asked why the Planning Board discusses change of use. If the change affected the building, then he could understand why an applicant would come before this board. He voiced this is a Victorian village and the board wants to make sure it stays that way; and parking changes could necessitate public hearings. It used to be that everything came before this board, then the board decided it would only review changes to the Victorian theme. Chair Appleby opined it is up to this board to set the criteria for review. The board questioned what is this board's role if it can't say "no" to an e-cigarette shop, a head shop, or another pizzeria. Member McCarthy feels Member Locke resigned because she felt she was getting nowhere. It was discussed approaching the Village Board for clarification. Chair Appleby mentioned discussing same with CEO Zarnstorff and they felt it would be the ZBA to make that determination. The ZBA interprets the zoning code, i.e. 58-8, which was sent to all members. An interpretation is brought forth by the CEO where he makes his determination then the ZBA reviews it and makes a decision. Site plans and building approvals are required for land use. Generally the planning board's role is to make sure items such as environmental, lighting, landscaping, and proper egress are addressed. Perhaps change of use is strictly a ZBA matter and shouldn't come to this board. This application came here for off-street parking as there is no private parking on Main Street, and to see how many employees and customers are expected and to ascertain how parking will be handled. Code section 58-8 could be clarified through the ZBA or VB then it would determine what would be reviewed by this board. If it is a commercial business in a commercial district then what is there for the ZBA to review? If it's a permitted use, the ZBA has no right to intervene. If there are other things like off-street parking, renovations, etc, they would be reviewed by the planning board. There was discussion about saying "no" to businesses that are not desirable for this village and who gets to say no. How many head shops are in Pittsford? Zero. Why is it that way? Who says no and where do they get that right/power? That goes along with adult uses. In our Zoning code we have adult-use areas. The courts decided you can't exclude a business but you can dictate where it goes. There is a fine line permitting certain businesses and prohibiting others. Maybe we need tougher codes? If we ever got into litigation it would be an Article 78.
- Again, the Grace Bible Fellowship was discussed. They have not formed a church there yet; were they given the 2-year clause? Board wants clarification by next meeting. The place looks awful.
- Discussed next steps. Board will send formal letter to CEO and ZBA, and maybe village attorney could weigh in. Maybe each member could research other villages. State code for planning boards is NYCRR article 7, section 718-741. Member LoMonaco will look for case law for cases where boards did say no. Chair noted the section of 58 that he sent has been rewritten, and it gives Planning Board the authority for all parking changes. Chair will try to get changes out to members.
- Chair will draft a letter, send it to members, they will reply.
- Some discussion of 100 Fair Street and the environmental issues that came from it. Discussion about requesting a plan for remediation.
- A policy, procedure, and process for applicants should be drawn up next. Should include timeframes.

NEXT REGULAR MEETING: Monday, December 9, 2013 7:00pm. Application materials due by Noon Monday, November 25.

ADJOURNMENT:

- ➔ Member Switzer moved, Member McCarthy seconded, unanimously carried that the meeting be adjourned at 7:55pm.

Pamela W. Krahe, Clerk