

Special meeting of the Planning Board of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Monday, August 26, 2002 at 7:30pm.

PRESENT: Chair R. Scott Winner, Vice Chair John Brugger, Member Charles Switzer, Member Annette Locke, Member Arthur Appleby, Building/Zoning Officer Scott C. Zarnstorff, Village Clerk Leslie Ann Morelli.

EXCUSED:

ALSO PRESENT: Frank A. Aloï: Deputy Village Attorney, Tom Carpenter of Chatfield Engineers (Village Engineer), Bradley B. Upson; DPW Superintendent, David Strabel, John Mendez, Larry Fenity, James Zivoski, Steve Zivoski, Michael & Michelle Guerrieri, Joan Hamlin, Ronald and Carole Tolster.

CALL TO ORDER: Chair Winner called the meeting to order.

REVIEW OF MEETING MINUTES: Chair Winner said they were not yet available for review and expressed the Board's condolences to Clerk Morelli for the loss of her mother.

CORRESPONDENCE: None

PUBLIC HEARINGS: None

OLD BUSINESS:

1. Application of: Name: David Strabel, Architect for John Mendez
 Address: 48 Merchants Street
 Purpose: site plan approval for restaurant

Applicant Presentation:

David Strabel and John Mendez were in attendance to continue review of their site plan. D. Strabel shared that the Zoning Board of Appeals granted the area variances on setbacks as applied for. D. Strabel said they are still awaiting approvals from Monroe County Health Department and the NYS Canal Corporation.

Continued Board discussion on application:

Member Appleby asked if there were any recent changes to the plan. D. Strabel said no, but three options remain for water line installation. Discussions have taken place with the Village regarding a joint water line project. DPW Superintendent Upson said the Village wishes to proceed with a water line installation and would prefer to have the water line installed on the east side of the Canal Side Pub. D. Strabel said J. Mendez is willing to provide a 20' wide utility easement. B. Upson said the Board of Water Commissioners needs to approve the RPZ. Member Appleby asked about their timeline. D. Strabel said he is working on construction drawings. They would like to start construction late winter or early spring of next year. This is likely when the Village would install the water main as well.

Member Appleby said the Board wants to clear up any doubt that this is a restaurant with an accessory bar, not vice versa. He said his major concern is that there is a bar, Canal Side Pub, right across the alley. F. Aloï suggested that J. Mendez sign his letter of intent and that any vote include this as a condition. Chair Winner asked F. Aloï if the Planning Board can revisit the application after one year of operation. F. Aloï said they would be taking a new step and over-reaching their Planning Board authority. D. Strabel said if the intention changes, the Building Inspector has every right to look into it. F. Aloï agreed that if objective, observable facts change it would be cause for concern. Chair Winner agreed and concurred that the Board wants to keep on track with this being primarily a restaurant and not a bar. D. Strabel said J. Mendez' letter of intent is clear. Chair Winner said this proposed restaurant will be a benefit to the community.

⇒ Member Switzer moved, Member Appleby seconded, unanimously carried to grant site plan approval on the updated plans prepared and presented by David Strabel, Architect, and contingent on the following: signed letter of intent concerning the restaurant operation and approvals obtained from the New York State Canal Corporation, New York State Liquor Authority, Monroe County Health Department, Brockport Board of Water Commissioners, and Brockport Building Inspector.

Standard note: Approval is granted with the understanding that said plans are subject to review and change after two years from date hereon if installation is not completed by that time.

NEW BUSINESS:

1. Application of: Name: Michael Guerrieri
 Address: 36 Erie Street (formerly Angus O'Brien's)
 Purpose: site plan approval for restaurant

Applicant Presentation:

Michael (Flash) and Michelle Guerrieri reviewed their application for "Flash's Tavern".

Continued Board discussion on application:

Member Appleby asked if they had yet acquired the property. M. Guerrieri said the title work is in process, then a closing will be set. Member Appleby inquired as to the status of the second floor apartment leases. M. Guerrieri said he has no desire to be a landlord, so the leases will continue until May 2003. Then the upstairs would not be used for apartments. Member Appleby said a lift would be required for ADA purposes if they were to expand upstairs. Member Appleby asked if he planned to expand the kitchen. M. Guerrieri said no, but it is being thoroughly cleaned and reorganized. He reviewed the floor plan and indicated that they plan to utilize the front door. The rest rooms will remain where they are. They will add a couple of arcade games. Member Appleby inquired about the wall between the middle room and the bar and expressed concern that removing it, or any portion might expose the dining patrons to smoke from the bar area. Chair Winner said there was concern of the stool and standing area being an impediment to entering or existing by the rear. S. Zarnstorff agreed that is a concern. Chair Winner further said it tends to create a predominantly bar attitude towards the back of the house. The Village wants the primary character to be of a restaurant. Member Locke added that the proposed name "Flash's Tavern" indicates more of a drinking establishment. Chair Winner agreed and suggested they consider dropping tavern and replacing with grill. Member Locke further stated that the proposed hours of operation indicate that the bar would be open two hours later than the restaurant. She said the Planning Board has been holding other similar applicants to serving food until closing. M. Guerrieri said the kitchen hours are just tentative and would depend on business. Chair Winner stressed they would like the restaurant and bar hours to coincide.

Member Switzer referred to the section of the Code that prohibits the establishment of a bar within 300 feet of an existing bar, 200 feet from a school or church and 300 feet from residential zoning. He questioned if the Nativity School and the Methodist Church are within those bounds. Michelle Guerrieri commented that this is a change of ownership, not a change of use. She further provided a sample of the menu. Chair Winner commented that the extensive menu would indicate they are serious about running a restaurant. He said they do not want to be an impediment to establishing a business; they simply need to be consistent and follow the codes. M. Guerrieri said they play softball and bowl and need somewhere to go before or after. There aren't many places like that around here. Member Brugger asked if they planned on having live entertainment. He commented that his biggest disappointment in Angus O'Brien's in its last few months was the noise from live entertainment and the exterior degenerating with open containers and such. Michelle Guerrieri said it really is not spacious enough to cater to live entertainment.

Member Switzer said if it becomes popular, there is really no waiting area. M. Guerrieri said they plan to leave some space open at the front door area (where the 6 foot long table was) for a hostess and waiting area. Member Appleby asked if the front porch would meet ADA requirements. M. Guerrieri said yes, S. Zarnstorff spoke to him about this. Member Appleby asked if they plan to expand the ventilation. Chair Winner commented that there was a time when the smoke would go away quickly. M. Guerrieri said there are ventilation difficulties. They need an additional exhaust fan to keep the air moving. It got very plugged up. Chair Winner referred him to the Monroe County Health Department codes regarding needing a smoke free area. Chair Winner asked if they had a color scheme in mind. Michelle Guerrieri said the ceiling would be dark blue with gray and cream walls and trim.

S. Zarnstorff reviewed his comment letter. One issue is of fire protection. Another issue is that of the dumpster enclosure and location. M. Guerrieri said the prior Planning Board apparently asked Angus O'Brien's to move the dumpster down. However, it is too close to an adjoining wooden structure.

Member Brugger asked if it would be possible to make a site visit. Board scheduled a site visit for Wednesday, August 28th at 5:45pm. This will be scheduled on the September 9th Planning Board agenda for further review.

- 2. Application of: Name: Lawrence Fenity for James Zivoski
 Address: 53 Main Street (formerly Lift Bridge)
 Purpose: site plan approval for restaurant

Applicant Presentation:

Architect Lawrence Fenity and James Zivoski were present to discuss the proposed Jimmy Z's restaurant at 53 Main Street. James' father Steve Zivoski was also in attendance to assist his son. He has run restaurants his entire adult life. J. Zivoski would be renting the space from owner Archie Kutz. It would be a counter service and take-out restaurant with a vast menu, catering especially to high school and college crowds. There would be 40 seats. No alcohol would be served. The hours of operation would likely be 11am to 2am. It would be non-smoking.

Continued Board discussion on application:

Items that were discussed were the hours of operation with respect to drawing the bar crowd, trash pick-up and litter control, ventilation and exhaust, dumpster enclosure, and handicap parking. Chair Winner asked what plans they have to deal with the post bar trade. There are frequent complaints from merchants about that clientele. The pizzerias have trouble with littering of the "to go" items and wrap.

S. Zivoski said they will have sizeable seating capacity and will provide trash cans inside and outside. Chair Winner asked what measures they will take regarding garbage and preventing infestation. S. Zivoski said appropriate garbage pick up is a cost of doing business. He said you can't cut corners on sanitation in the restaurant business otherwise the Health Department can close you down. They will wash the garbage containers regularly and schedule sanitation spraying. Member Appleby commented that the dumpsters in the rear are not enclosed. S. Zarnstorff said they need to be. L. Fenity said having the landlord, Archie Kutz, right next door at his store, Lift Bridge Book Shop, would help since his livelihood is at stake.

Chair Winner asked about the ventilation. L. Fenity said it vents out over the single story building adjacent to Lift Bridge Book Shop and is away from windows per code. They don't believe a second floor incursion is necessary.

Chair Winner said this particular space housed a restaurant many, many years ago. Member Brugger asked about handicapped access. L. Fenity said one would be provided in the rear off the municipal parking lot. However, they may need to relocate the space designated as handicapped parking. Providing a handicapped entrance through the front would butcher the cast iron façade. Member Appleby asked if there is a basement. L. Fenity said yes, more of a crawl space. S. Zivoski said it has a dirt floor. They have no use for it.

Chair Winner said their menu represents lunch, dinner and late night fare. He asked if they foresee offering breakfast. S. Zivoski said no, a 24-hour operation is difficult to run. James Zivoski said he will be 21 next week and has gone to MCC. He has been working the graveyard shift for 2 years. He had a few friends at SUNY Brockport that gave him the idea to open a restaurant here. It didn't seem like there was a restaurant that was geared toward high school and college kids and their families. He spoke with over 100 people researching the possibilities. Some SUNY Brockport students indicated that they drive all the way to Nick Tahoe's for a garbage plate and specialty sandwiches. He wants to offer that here with a local music and sports motif, and a couple of televisions. If a student wants to bring their books to study while eating, they will be welcome. He said he wants to make something of himself and make his parents and grandparents proud. Chair Winner asked for a ballpark figure on the investment they plan to make to indicate their serious intent. S. Zivoski said upper 5 figures.

Superintendent Upson commented that the new wall under the stairway creates a dead zone. L. Fenity said it is just for cleanliness purposes so junk does not accumulate there. B. Upson asked about garbage disposals and grease traps. The restaurant will be non-smoking as County law dictates.

⇒ Member Appleby moved, Member Brugger seconded, unanimously carried to grant site plan approval contingent on the following: satisfaction of the Building Inspector, appropriate dumpster enclosure and adequate pick up, handicapped access at rear entrance, and a handicapped parking space near rear entrance.

Standard note: Approval is granted with the understanding that said plans are subject to review and change after two years from the date hereon if installation is not completed by that time.

OPEN FORUM:

1. Ronald and Carole Tolster who live at 64 Smith Street and rent out 124 Clark Street expressed concern about a driveway expansion at 86 Smith Street and that it is now a rental house with an absentee landlord. C. Tolster said the Smith Street area is a volatile slum at the north end with a beautiful park at the south end. There have not been College students living on the street until recently. Chair Winner said he lives on Fair Street, which now has college rentals. C. Tolster said they learned that the Planning Board approved a driveway expansion there and expressed that it seems to have given the landlord the go ahead to rent to more tenants.

Chair Winner said S. Zarnstorff could certainly look into the issue of the number of tenants. He said so much code enforcement is needed throughout the Village that there is somewhat of a resource problem with getting to every issue in a timely fashion. Regarding the driveway, Member Brugger commented that the property owner expanded the driveway with gravel without any approvals. S. Zarnstorff had him apply to the Planning Board for approval. He was granted approval contingent on removing some of the gravel and returning it to green space or sidewalk, preventing parking from further expanding. Member Appleby said if he doesn't meet all conditions of his approval, including paving within a certain amount of time, S. Zarnstorff would address it.

C. Tolster said her husband had a confrontation with some of the tenants asking them to keep it down. Member Brugger asked if they had contacted the Police Department. C. Tolster said yes. Chair Winner encouraged them to continue to work with the Police Department and Code Enforcement Officer when concerns arise. As far as the driveway expansion goes, the Planning Board will do what it can to follow up on the property owner holding to his conditions of approval. Chair Winner thanked the Tolster's for bringing this to the Board's attention and encouraged them to contact the property owner with their concerns as well.

MISCELLANEOUS:

Member Appleby shared that he met with S. Zarnstorff and is working on creating revisions regarding permitted uses, prohibited uses, and special permits. They welcome any recommendations the Planning Board may have.

Chair Winner shared that he contacted Trustee DeToy, liaison to the Planning Board and to Village Code Review about assembling a core group to take a hard look at changes needed in the Code.

NEXT REGULAR MEETING: Monday, September 9, 2002 7:30pm

ADJOURNMENT:

➔ Member Appleby moved, Member Brugger seconded, unanimously carried that the meeting be adjourned at 9:30pm.

Leslie Ann Morelli, Village Clerk