

**VILLAGE OF NEW PALTZ PLANNING BOARD  
REGULAR MEETING February 14, 2006**

**Call to order:** The meeting was called to order at 7:00 p.m.

**Members Present:** Ray Curran, Deputy Chair; Marion DuBois, Ruth Elwell, Laura Heady.

**Members Absent:** George Danskin, Chair.

**Also present:** Moshe Plotkin, Jean Zitterstrand, Patrick Fillet, Susan McNaughton, Rev. Bill Schnitzer, Dorothy Jessup, Ken Sofer, Jack Gordon, Rick Alfandre, Jordan Valdina, Michael Zierler; Village Trustee and Planning Board Liaison, and other members of the public.

**Minutes:**

- o A motion was made by Ms. Elwell to accept the minutes of January 10, 2006. The motion was seconded by Ms. DuBois and carried unanimously by the Board
- o A motion was made by Ms. Elwell to accept the minutes of January 17, 2006 with the correction of one typographical error. The motion was seconded by Ms. Heady and carried unanimously by the Board.
- o A motion was made by Ms. Dubois to accept the minutes of December 6, 2006. The motion was seconded by Ms. Elwell and carried unanimously by the Board.
- o A motion was made by Ms. Elwell to accept the minutes of December 13, 2006. The motion was seconded by Ms. Dubois and carried unanimously by the Board.

**New Applications:**

**PB05-44: Janene & Lino Fantini. 23 N. Chestnut Street. [SBL: 86.34-2-4 (B-2)]**

Site Plan: Construct a second floor addition over the existing daycare center to create 2 apartments: (1) two bedroom apartment and (1) three-bedroom apartment.

UCPB Review: No County Impact

Applicants Present: Janene & Lino Fantini; Carmine Fuco, contractor.

The applicants described their project to create a second floor with two apartments totaling @3000 square feet. At the time of the preliminary discussion, the applicants proposed two 2-bedroom apartments but will now be constructing one 2-bedroom and one 3-bedroom apartment. Lighting and parking were discussed at that initial meeting.

The Board reviewed the plans and felt that the changes to the building would match and enhance the character of the neighborhood. The bottom portion of the building would remain the same with the addition of the four columns and the replacement of the front overhang. There will be vinyl siding on the 2<sup>nd</sup> floor (annapolis blue with sandalwood or bone trim on the windows) and the roof would be gray or black. The Board confirmed that parking was adequately provided for the daycare staff (16 spaces) and the tenants (4 spaces). The existing exterior lighting would be supplemented with recessed lights underneath the overhang. There would be no additional lighting on the property except by the door in the rear of the building.

The short Environment Assessment Form was completed and the Deputy Chair noted this was an **unlisted action under SEQR**. As there would be no significant environmental impact associated with the application, a Negative Declaration was made by the Board. It was noted that the Ulster County Planning Board reviewed the application and determined it had no county impact. A motion to approve the application with no special conditions was made by Ms. Elwell. The motion was seconded by Ms. Heady and passed unanimously by the Board.

**Pending Applications:**

**PB05-40: Moshe Plotkin. 10 South Oakwood Terrace. [SBL:86.34-11-14 (R-2)]**

Special Use Permit: To establish a house of worship and related residence.

Applicant Present: Rabbi Moshe Plotkin, Bracka Plotkin

The Deputy Chair noted that this application has been discussed extensively at last month's public hearing and at the subsequent mediation meetings. Rev. Bill Schnitzer reviewed the mediation process and felt it was successful in identifying and communicating a better understanding of the concerns voiced by both the Rabbi and his adjacent neighbors. After meeting with each of the stakeholders individually, he presented the problem areas to Rabbi Plotkin and his wife. A meeting was then held at Deyo Hall last Thursday with the neighbors and the Plotkins to review and discuss the findings.

The Board reviewed Rev. Schnitzer's initial memo of February 2, 2006 listing nine areas of potential agreement (as a starting point) between the parties, Drayton Grant's (Planning Board attorney) response to those items and a copy of Michael Zierler's notes from the February 9<sup>th</sup> 2006 meeting. Rev. Schnitzer said the meeting began with the discussion of those initial 9 points and expanded to 13 by the end of the evening; none of which achieved complete consensus. He emphasized that the

section titled "Items that could be part of a special use permit" should be used by the Board only for informational purposes and possible suggestions and in no way advocated a specific direction or outcome, specifying that several items may not even be in the purview of the Planning Board. He specified that other items in the report reflected issues for creating good neighbors and were not questions of law.

The Board thanked Rev. Schnitzer, Mr. Zierler, Rabbi Plotkin and all the neighbors for their efforts to communicate and resolve their concerns in a neighborly fashion.

Mr. Curran referenced the Building Inspector's findings that changes in occupancy classification/use require the applicant to apply for and receive a Building Permit and a Certificate of Occupancy (C of O) and show full compliance with the Building Code at the time of issuance. Although this condition is inherent in the law, Mr. Curran suggested it would be beneficial to include this statement as a condition of the SUP to remind the applicant of the requirements for a building permit and a change in the C of O. He noted that several of the neighbor's concerns would therefore be covered by law and need not be included as a condition to the special use permit..

The Board reviewed the 13 points as follows:

Item

- Handicapped Accessibility is a Building Code issue under the purview of the Building Inspector and related to the Building Permit application and the Certificate of Occupancy.
- Health and Safety requirements are also a Building Code issue under the purview of the Building Inspector. However, Ms. Elwell felt this condition should be included as a condition to emphasize that, as a place of public occupancy, compliance must be assured in the future.
- One Year Time Period for Implementation is redundant as it is included, by definition, in the Special Use Permit.
- Occupancy Capacity is under the purview of the Building Inspector using an objective standard of 7 square/feet per person.
- Outdoor Noise. The Rabbi said he had no problems adhering to the existing noise and light ordinances for residential communities (11pm) with the exception of the week of Succoth, a harvest festival, which some years could end a little later than 11pm. The Rabbi noted that it is a loud neighborhood; there are often special occasions (e.g. graduation parties) as well as general noise from students well past 11pm and did not want all noise complaints to be attributed to the Chabad house.

Ms. Elwell confirmed that this outdoor issue concerned only House of Worship functions, not personal events. In response to the questions about the frequency of events, the Rabbi noted that indoor events/ services would be held on Friday nights (after sundown) and during the 12 Jewish holidays (which would include some of the Friday nights) and the only outdoor events would be the one week a year referenced above.

- Exterior Lighting. Mrs. Plotkin stated they do not have any exterior lights. The neighbors' complained that interior lights were on all the time. Mrs. Plotkin explained that she keeps the hall light on – which lights up both the 1<sup>st</sup> and 2<sup>nd</sup> floors, as she frequently goes up and down the stairs in the middle of the night to prepare bottles for her three small children. The Plotkins said they have ordered windows shades and hope that that will remedy the situation. As this was unrelated to the religious use of the premises, Ms. Elwell stated this was not an issue for the Board, although such discussions could be continued in a mediation process with the neighbors.

There was discussion about lighting in the outside succa (a temporary structure) during the week of Succoth. In order to comply with the Village regulations, the Rabbi said they could put the light in the succa on a timer or have someone turn the light (100 watt bulb) off. The condition for the special use permit will include a phrase stating that Exterior Lighting must meet the requirements of the Village and be mindful of the close proximity of the adjacent neighbors

- Noise Buffers: Landscaping/Fencing. Since buffers are useful for screening outdoor activities and the activities of the Chabad house are almost exclusively indoors, the Rabbi felt this was really an understandable "neighborly" concern rather than a House of Worship issue. He was agreeable to putting up a fence since this would create a backyard area for his family out of the view of his neighbors but was concerned about the cost. After hearing some of the neighbor's complaints, Ms. Elwell made a distinction between conditions created by the religious use of the property (e.g. additional trash from religious services conducted with meals) – which is a Planning Board concern versus conditions resulting from a residential household with small children (messy yard).

Suggesting that shrubbery would reduce the impact from noise and light, Ms. McNaughton suggested a 6 foot vinyl fence along the north side of the property and shrubbery along the

eastside by the garage, recommending professionally planted specimen size evergreens. The Board noted this was quite expensive and Mrs. Plotkin said they would like to work with their neighbors but are quite concerned about the cost of some of the suggestions.

Mr. Zierler noted that although one of the conditions of a SUP approval is that it does not impose impacts greater than permitted uses in the neighborhood, the law clearly states that the mitigation procedure should not be so onerous that it effectively denies the application.

Members noted that although the fence may not achieve the desired buffer; the Board seldom requires mature trees due to their expense. As the existing garage currently acts as a 20' noise buffer for Ms. Zetterstrand, she was concerned about what would happen when the garage is taken down (either from disrepair or when the Plotkins built an extension on the house).

Ms. Heady suggested that the Board stipulate that a 6' fence should be put in along the north side of the property. Noting that Rabbi Plotkin would be returning to the Planning Board for site plan approval only if he was requesting an extension on his house (which would also require an area variance from the ZBA), she suggested that a condition be added stating that in the event that the garage was taken down prior to that time, the applicant must return to the Planning Board to address buffering (of noise and light) on the east side of the building.

After some discussion, the property line was determined to be 3' from the edge of the foundation on the north side of the property. The Rabbi felt that fences are usually put up by 2 neighbors to separate their properties and therefore should be installed along the property line. After some discussion, the neighbors requested that it be installed 33-34 inches from that line and the Rabbi agreed. The Board will require that the fence be installed at the time that the Certificate of Occupancy is issued.

- Site Plan: No site plan is required for this special use permit.
- Enclosed trash receptacle. The Board determined that the trash receptacles should be totally enclosed behind fencing. At the time of the issuance of the C of O.
- Menorah -Although the PB Attorney considered the Menorah under the signage ordinance, the Rabbi said it was a seasonal decoration and agreed with the Board's condition that all seasonal (temporary) exterior religious structures and decorations will be dismantled and stored out of sight when not in use and displayed only during the appropriate celebration.
- Signage. The Rabbi agreed to adhere to the residential sign ordinance. He understood that any deviation from the code requirements would require a variance from the ZBA.
- Parking: Although parking regulations are outside the purview of the PB, the applicant showed a willingness to comply with the alternate side of the street parking regulations for this area and also would not park across sidewalks. Distinguishing between personal and religious use, the Rabbi explained that congregants cannot drive during the Sabbath (which starts at sundown on Friday night and continues for @25 hours) and four times a year (during the holidays) for a 48 hour period. Mrs. Plotkin said one of her neighbors, Ms. Osbourne, has offered them the use of 4 parking spaces in their driveway and Rev. Schnitzer suggested an agreement with the university may also be possible.

Although residents could usually apply for a temporary reprise from the alternate side regulation (e.g. due to special event, religious observance) Ms. Elwell noted that as vehicles have gotten larger, the alternate side designation was a safety response to insure fire trucks accessibility on narrow streets.

- Limiting the duration of the approval to one year and requiring review by the Planning Board for renewal of the permit was not acceptable to the Board members.

Mr. Curran reviewed the eight conditions for the Special Use Permit:

1. The applicant must obtain a Building Permit
2. The applicant must obtain a revised Certificate of Occupancy
3. The applicant must comply with all appropriate building codes related to health and safety.
4. Outdoor religious celebrations will conform to the 11:00 pm Village Noise ordinance. The frequencies of the outdoor celebrations have been identified to the 7 night of Succoth and do not require permission from the applicant's neighbors.
5. Exterior lighting will meet the requirements of the Village and be mindful of the close proximity of the adjacent neighbors
6. The following buffers will be implemented.
  - a. North side of property: A 6'H maintenance free (vinyl), solid fence will be installed along the north side of the property (back yard) (at the time that the C of O is issued)
  - b. East side of property: If the garage is taken down, the applicant must return to the Planning Board and address a buffering configuration to mitigate the impact of noise and light.
7. The trash will be enclosed on all four sides.

8. All seasonal (temporary) exterior religious structures and decoration that will be dismantled and stored out of sight when not in use and displayed only during the appropriate celebration or season.

Ms. Elwell made a motion to approve the Special Use Permit with the above referenced eight conditions. The motion was seconded by Ms. Heady and passed unanimously by the Board.

PB05-51: Ken Sofer. "Blockheads." 1-3 Plattekill Avenue. [SBL:86-143-1-18 (B-2)]

Site Plan/Special Use Permit: Conversion of existing retail space to a restaurant

UCPB Review: No County Impact

Applicant Present: Ken Sofer, Rick Alfandre, Jordan Valdina, Alfandre Architects.

The applicant presented the requested information concerning additional parking spaces and a waste management plan

Mr. Sofer submitted an agreement with Peter Savago verifying the use of 6 parking spaces at 101 Main Street after 6:00 pm each night. This will enable him to have a total seating capacity of 135. He also included a letter from Sally Rhodes indicating that the Elting Library (located at 93 Main Street) would consider the possibility of renting parking once the renovated facility is reopened (projected in August). This would provide parking spaces above and beyond the required number.

The Board reviewed and discussed the plans for the enclosure for the trash receptacles and the propane tanks. The applicant noted that the tanks will be moved from the side of the building to the back. The distance from the building edge to the property boundary is 3 feet. The applicant has a tentative agreement from Mark Ross for an additional three feet (onto Mr. Ross' property) that would allow an enclosure to be built that would be 6' deep from the edge of the building to the outside of the enclosure. The four propane tanks would go to the north edge of that enclosure (next to the two dumpsters). Currently there are two dumpsters and a small shed build for recyclables. As the applicant will not need the shed and he has gotten permission from the owner to take it down, the tanks could be put there as well as the two dumpsters for Blockheads and Starbucks.

Ms. Elwell pointed out that if Mr. Ross does not give Mr. Sofer an easement, but merely rents the three feet of property to him, the arrangement is not permanent and can become problematic at any point in the future.

Mr. Sofer presented an alternate plan that entailed moving the tanks to where the dumpster is currently located and relocating the dumpster to an existing vacant mechanical room with a concrete floor that can be separately vented. The garbage would be stored in eight 96 gallon totes. Two sanitation companies said after the applicant gives them the key, they wheel the trash out at night, dump them, return the totes to the room and lock up. Mr. Sofer said the room will be used for storage and will have no permanent structures so it will always be available if needed. The Board felt that both of these scenarios should be included as conditions of the Special Use Permit. The applicant also noted that if the four propane tanks do not fit in the identified space, he will use three tanks and have them filled more often.

Mr. Sofer stated that the number of sanitation pick-ups used for similar establishments in the village is two to three times a week but the maximum offered is five pick-ups a week. The applicant said he would have five pick-ups a week and increase to six when and if the 6-day services are offered.

In addition to the waste management situation described above, the Board added the following conditions to the special use permit for a maximum seating of 135:

- The kitchen would be open and full restaurant service would be available during all hours of operation
- No amplified live music, including bands and DJs, or dancing shall be permitted.
- No banners or signs promoting alcoholic beverages shall be hung from or affixed to the building or any structural element on the property.

Ms. Elwell voiced concern about the potential impact of having the restaurant remain open past midnight, given the high density of existing late-night bar-establishments (in close proximity) and loud pedestrian traffic. After a lengthy discussion, including financial implications for the applicant, the Board decided not to stipulate any closing hours.

A motion was made by Ms. Heady to approve the special use permit with the above referenced conditions and the site plan as amended and submitted from Alfandre Architecture dated February 7, 2006. The motion was seconded by Ms. DuBois and passed by a vote of 3 ayes with 1 abstention. Ms. Elwell abstained from voting. She felt the parking information was insufficient to make an informed decision.

PB05-46: Jack Gordon. 17-19 Church Street [SBL: 86.127-1-5 (B-2)]

Special Use Permit: Change existing retail space into restaurant

Applicant Present: Jack Gordon, Rick Alfandre, Architect

At the previous meeting, the Board had requested the applicant to review the parking assessment and provide detailed information about waste removal.

Mr. Alfandre summarized that the calculations and number of identified spaces (24) remained the same as presented in the original submission. Regarding waste removal, he said roll-out carts will be used rather than dumpsters and a privacy fence will be constructed to shield it from public view and discourage people from accessing the roll-out carts.

Mr. Gordon said he might apply for a wine and beer license. Regarding hours of operation, he said that he did anticipate that this will be a late night establishment.

A motion was made by Ms. Heady to approve the Special Use Permit as presented on the site plan dated October 27, 2005 and the addendum dated February 1, 2006 submitted by Alfandre Architecture. The motion was seconded by Ms. Dubois and passed by a vote of 3 ayes with 1 abstention. Ms. Elwell abstained from voting; she felt the information available about parking was insufficient to make an informed decision.

**Other Business**

The Deputy Chair made the following two announcements

1. The Village Board is looking for one or two volunteers for the Village EnCC. They are putting together a special committee to review the wetlands ordinance.
2. The Village is looking for a volunteer to serve on the Ulster County Planning Board. Ms. Elwell volunteered.

**Adjournment:**

A motion to adjourn was made by Ms Elwell, seconded by Ms. DuBois and passed unanimously by the Board at 9:25 pm

Respectfully submitted,

Alison Shestakofsky  
Secretary to Village Planning Board

Copies to Trustee Michael Zierler  
Drayton Grant, Attorney  
David Clouser, Engineer  
Ted Fink, Planner  
Bob Chamberlin, Traffic Engineer