

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

Call to order: The meeting was called to order at 7:03 p.m.

Members Present: George Danskin, Chair; Ray Curran, Marion DuBois, Ruth Elwell, Laura Heady.

Also present: Rick Rauch, Dino Toscani, Jordan Valdina, Rick Rausch, Michael Zierler; Village Trustee and Planning Board Liaison, and other members of the public.

Approval of Minutes:

A motion was made by Ms. DuBois to adopt the minutes of the February 7, 2006 workshop with no changes to the document. The motion was seconded by Ms. Elwell and carried by the Board.

New Applications:

PB06-06: Rick Rauch/Catskill Mountain Brewing Co. 3 Main Street [SBL: 86.003-2-7.1 (G)]

Site Plan: Install canvas awning over outdoor dining area.

UCPB Review: No County Impact

Applicant Present: Rick Rausch

The Chair explained that since the property is located in the Gateway district, the Planning Board must approve any architectural changes to the structure of the building. Since Mr. Curran was not present last week, Mr. Rauch reviewed the details of installing an awning to cover approximately 53% of the outdoor dining area at the Gilded Otter, which would follow the fence line. He said the awning would be a permanent (non-retractable) structure made of canvas with two aluminum poles on each side to support the structure (painted green). The applicant showed a picture of the awning and a sample of the fabric noting that the aspen green color would match La Stazione, the neighboring restaurant. The life span of the awning would be @ fifteen years if it were taken down after every season and eight years if it remained up year round.

The Ulster County Planning Board issued a no county impact for this application. Mr. Curran made a motion to approve the awning and structure as presented. The motion was seconded by Ms. Heady and passed unanimously by the Board.

PB05-49: Robert Downs/Interzone Inc. 58 Main Street. [SBL: 86.143-1-12 (B-2)]

Special Use Permit: Convert existing retail space to a restaurant with no exterior changes to the building.

Applicant: David Sall. Esq. Representative

Mr. Downs presented the idea of a "diner" type restaurant at the preliminary discussion of the application on November 1, 2005 workshop. Mr. Downs was present during the discussion with Ken Sofer, another applicant that evening, regarding the problematic parking issue required for restaurants. The Board reviewed the situation with the applicant, noting that approval for another retail space, rather than a restaurant, would be easier to obtain. Mr. Downs said he would reconsider although all the rental offers he has received to date are for restaurants. Mr. Downs completed the Special Use Permit addendum and submitted some parking information on March 3, 2006.

The Chair explained to Mr. Sall that over the past four months the Planning Board has been taking a hard look at available parking for any restaurant proposals in the downtown area. He said how the past two successful applicants submitted a parking availability study that was reviewed by the Planning Board's traffic engineer. He felt the information submitted by Mr. Downs was a good beginning to a parking analysis but would require more substantial information.

Mr. Sall asked if there was a procedure for this analysis and why this impacted on restaurants only. The Chair explained that the analysis doesn't apply to only restaurants but that the PB has only seen applications for restaurant over the past 4-6 months. He noted that restaurants have one of the highest demands for parking of all commercial uses, and this is reflected in the municipal code. Mr. Danskin said there is no written procedure outlined for the parking analysis.

Mr. Sall asked what the code requirements state, since that information is the limit of any Board's authority, and what is in that code that the Board is presently lacking. The Chair said the code states that there must be one on-site parking space for every three seats; in the absence of on-site parking, the applicant can use public and three municipal parking within a 400' radius of the establishment provided those spaces haven't been previously allocated to other establishments. He noted that since no one had been tracking the parking spaces over the years, the same spaces have been counted many times over. The Board now feels it is essential to pay closer to the letter of the law and therefore required parking analysis from the two previous restaurant applicants and would ask for the same analysis for this application.

Mr. Sall said it seems that the Board was asking the applicant to produce something that had no procedures and said there were no instructions in the code authorizing the Board to conduct such an ad hoc procedure. He pointed out that since the application had already been submitted, and now was being asked to submit something new (ex post facto). The Chair said that Mr. Downs was fully

aware of the Board concerns about parking and even said at the preliminary discussion in November that he would re-think his plans.

Mr. Sall asserted the map/plat submitted by Mr. Downs showed sufficient parking for the number of seats (36 spaces) owned by the applicant within the acceptable radius and to say that these spaces have been allocated to some other uses, the Planning Board was dangerously close in using its authority for economic control of creating a favorite status for certain restaurants. He again asked why his client can't go forward with his plans when he has shown, much in the same manner as other restaurants have done, that there is sufficient parking available.

The Chair said the Board believes that the parking situation is now at a critical level and they need to take a closer look at what the law intended and do not feel bound by previous mistakes or oversights. There is a recent precedent whereby the two previous applicants provided a parking analysis (deriving a protocol in conjunction with the Board) whereby they looked at available spaces from the content of other restaurants within the radius area.

Mr. Sall again questioned the Board's authority to request such an approach. The Chair responded that the study is to demonstrate compliance with the code and is no different than any other demonstrations required in a great many cases when there is no specific protocol outlined.

Ms. Elwell pointed out that the spaces identified in this applicant's drawing also included spaces previously designated for other businesses owned/rented by the applicant in the same vicinity and therefore cannot all be available for this purpose.

Mr. Sall asked how to guide his client since there are no written protocols. The Chair recommended that he engage a traffic engineer and meet with the PB to discuss further directions. Mr. Sall noted this would be an additional expense and there would still not be a written protocol to follow, only the ad hoc procedures until the Board says it is satisfied.

Ms. Elwell said the code is the starting point and restated the requirements noting "unassigned" spaces within a 400' radius (includes municipal/public parking). Mr. Sall said you cannot lay claim to public land to the benefit of private enterprise to the exclusion of others – this would constitute favoritism. For the record, Mr. Sall summarized his concerns about the ad hoc procedures; stating it hasn't been written down, there doesn't appear to be any authority vested in this procedure, his client needs to hire a professional and show available parking when there are no records of what parking is already attributable to others. The Chair noted that some of the parking information is available in previous applications, including Mr. Down's previous applications and emphasized that the Board is not bound by previous mistakes, the code is clear as written, the Board has established a precedent in terms of conducting an availability study, they have a traffic consultant available, a lawyer available, and is more than willing to work with the applicant.

Ms. Elwell said that in addition to the parking analysis, the application as submitted is not complete. In summary, the Board required the following information for completeness:

1. Demonstration of adequate parking;
2. Seating plan (tables and chairs)
3. Location and seating for any bar
4. Kitchen location
5. Handicapped access
6. Site plan for any changes to the facade
7. Location of refuse enclosure
8. Plan for exterior lighting
9. Location of propane tanks, if used
10. If any outdoor seating, identification of location of tables/chairs
11. Hours of operation

Mr. Sall felt all these issues were reasonable and well within the Board's inquiry with the exception of the parking study. The Chair said additional information would be accepted up to Thursday, March 30, 2006 for inclusion and further discussion at the April 4th workshop. Since Mr. Downs is currently out to the county, the Board stated the dateline for the May 2nd workshop is April 27, 2006.

PB06-05: Dino Toscani. 127 Main Street. [SBL: 86.34-6-11 (B-2)]

Special Use Permit: Convert existing deli into a restaurant with no exterior changes to the building.

Applicant Present: Dino Toscani, Jordan Valdina, Synergy Design

The applicant submitted a drawing regarding previously approved parking and the Board continued the last week's discussion regarding the demonstration of adequate parking. The applicant stated his opinion that previous approvals from the Planning Board have already established seating for 42 at these premises and that adequate parking exists behind the deli; of which 12 spaces were designated for Rachel's Inn. He also said that 155 spots will be available at 123 Main Street when the plan is completed for the 12 stores and the 24 apartments. He noted that this property leases parking from 123 Main Street.

Mr. Danskin said there is no visual demonstration of adequate parking for 123 Main Street, no plot plan or layout illustrating how many spots there would be or a layout of the cars and the pedestrian accommodations between the cars and the restaurant.

The Board requested to see the parking designated for all Mr. Toscani's sites on one map (primarily 123 and 127 Main Street) and that the following items be visually identified and submitted no later than the Thursday before the April 4th Workshop:

1. Correct the property location on the map
2. Confirm that this establishment meets the following two standards listed in Section 212-41D of the code for a Bar & Tavern: (a) the establishment cannot be within 500' of a school or church and (b) the primary egress/access must be 200' from the boundary of any residential district.
3. Present a floor plan showing the following:
 - a. Kitchen location (currently existing in basement)
 - b. Bar/bar-seating location in comparison to the tables/chairs in the rest of the restaurant
 - c. Refuse enclosure
 - d. Handicapped accessibility from street
4. Demonstrate adequate off-site parking.

Since Mr. Toscani did not want to include any of the parking spaces for 123 Main Street in the analysis for 127 Main Street (he would like to reserve those spaces exclusively for the proposed project at 127 Main Street), The Board requested Mr. Valdina to prepare a demonstration of available off-site parking within the 400' radius of the establishment.

Mr. Toscani said his customers never have a parking problem in this area as there is adequate available off-site parking including Prospect Street (which is fairly empty after 5:00pm) and a variety of spaces from his neighbors who do not conduct business at night (Pete Savago, Mary's Kitchen-across from the bus station, and the gas station next door). In addition, Mr. Toscani said he also rents space at night from the professional building across the street.

The Chair clarified that the Board would like to see a site plan for 123 Main and a floor plan and off site parking for 127 Main Street.

Preliminary Discussion continued:

PB05-52: Dino Toscani. 123 Main Street [SBL: 86.34-6-16.3 (B-2)]

Site plan: New construction of a mixed use building with retail (commercial group) on the first level and apartments on the second and third levels

Applicant Present: Dino Toscani, Jordan Valdina, Synergy Design

The Board continued the discussion from last week. Mr. Curran talked about the relationship of this building to the surrounding buildings, maintaining the downtown ambience (façade), connecting to the existing structural sidewalks to continue and extend the pedestrian walkway and connecting the proposed building to Main Street instead of separating it from Main Street by a parking lot. Mr. Curran said he didn't really see the connection of the proposed walkways to the library and to the bus station.

Regarding the layout, the applicant noted that the grade is higher at Main Street and lower in the back. The Board noted that the building is proposed on the wettest part of the lot. There was additional discussion about the placement of the building to provide both the best balance and continuity of Main Street and create a boundary between the commercial district and the residential area. The applicant said there would be a 35' buffer and retention ponds between the back of the building and the neighboring condos. Because of the higher elevation that overlooks and impacts on the condos, he will not have parking or balconies in the rear of the building.

The Board emphasized that the parking must be made pedestrian friendly and safe noting that having only one single point for access/outletting of 114 cars may not be acceptable.

Members said they like to see alternative building layouts (e.g. L-shaped), a better connection to Main Street, and residential parking in the back (using landscaping, low lighting etc to minimize the impact on the condos).

Several comments were taken from the public. The Board explained that these comments were very premature as the submitted sketch was only a very preliminary plan. Since the Board was meeting on Saturday morning regarding Victorian Square, an informal visit to further review the situation was scheduled for 11:30am on Saturday, March 18, 2006 (after the special meeting regarding the preparation of the FEIS for Victorian Square). Members of the public were invited to attend the visit.

Other Buisness:

The Chair announced the Public Hearing regarding a proposed moratorium on new restaurants and the expansion of existing restaurants using on-site and public parking was being held by the Board of Trustees on Wednesday, March 15, 2006 at 7:30pm at Village Hall.

Adjournment:

A motion to adjourn was made by Ms. Elwell, seconded by Ms. DuBois and passed unanimously by the Board at 8:50 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

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