

**VILLAGE OF NEW PALTZ PLANNING BOARD  
REGULAR MEETING MAY 9, 2006**

**Call to order:** The meeting was called to order at 7:01 p.m.

**Members Present:** George Danskin, Chair; Ray Curran, Marion DuBois, Ruth Elwell

**Members Absent:** Laura Heady

**Also present:** Dino Toscani, Tobias Devor, Julia Walsh, Barbara Youngman, Dorothy Jessup, Tina Isler, Christina Carp, Jonathan Cohen, Linda Griggs, Ashley Owen, Bart Colucci, Doris Colucci, Jay Armour, Dino Toscani, Robert Downs, David Sall, Trey Daniels, Building Inspector, Michael Zierler, Village Trustee and Planning Board Liaison, and other members of the public.

**Applications with Public Hearings:**

**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.

The public hearing was opening at 7:03pm. Barbara Youngman, Dorothy Jessup, Tina Isler and Christina Carp, residents from Village Gardens condominiums located adjacent to Mr. Toscani's property (at 123 Main Street) noted that the applicant had removed the trees and leveled his property months ago and since that time they've had no noise or visual buffers between their residences and Main Street (e.g. headlights from vehicles using this parcel for parking shine directly into their living rooms and bedrooms). The Chair clarified that this application requests to convert 127 Main Street to a restaurant and based on his meeting with Mr. Toscani and Mr. Valdina last week, proposes to use the underdeveloped lot on 123 Main Street for parking. Ms. Jessup and Ms. Isler said that a new restaurant would impact their quality of life by increasing the amount of noise and lighting (more cars, delivery trucks, garbage pickups) and stated that if 127 Main was to be used as a parking lot, it should have the appropriate lighting, landscaping and barriers to adequately buffer the area. Since the restaurant parking would be on the higher part of the lot, Ms. Carp said the buffer would have to be placed higher to shield the light. Ms. Isler also complained about noise from a large exhaust fan but could not identify the location of the fan.

A motion was made by Mr. Curran to close the public hearing at 7:12pm. The motion was seconded by Ms. DuBois and carried unanimously by the Board.

**PB06-11: Tobias Devor/60 Main -NP Cultural Collective. 60 Main Street. [SBL: 86.183-1-13 (B-2)]**

Special Use Permit: Retail business/services not otherwise specifically mentioned in the use schedule.

The public hearing was opened at 7:13pm. Linda Griggs, Jonathan Cohen, and Ashley Owen, a part-time student, spoke in favor of the application citing the importance of having a non-alcoholic gathering place for young people that provided a forum for art, music, and poetry. Since the establishment is run by volunteers, it also provides opportunities for both leadership and teamwork.

At 7:18pm a motion was made by Mr. Curran to close the public hearing. The motion was seconded by Ms. Elwell and passed unanimously by the Board.

**PB06-16: Bart Colucci/New Paltz Farmers' Market. 28 Main Street. [SBL: 86.33-3-8 (G)]**

Special Use Permit and Gateway Review: Hold outdoor Farmers' Market on Sundays from 6/18/06-through the end of October.

The public hearing was opened at 7:18pm. Referring to the Farmers' Market original location at the Elting Library parking lot (B- district); Jonathan Cohen noted that applications in the Gateway district are held to a higher standard. He showed support of the application and trusted that the Board would treat similar proposals with impartiality.

**DISCUSSIONS**

**PB06-11: Tobias Devor/60 Main -NP Cultural Collective (NPCC). 60 Main Street. [SBL: 86.183-1-13 (B-2)]**

Special Use Permit: Retail business/services not otherwise specifically mentioned in the use schedule.

Applicant Present: Tobias Devor (entrepreneur), Julia Walsh (lease holder)

The applicant brought in a petition with over a 100 names in support of the establishment and a diagram of the outdoor stoop where they'd like to build display shelves for retail merchandise (keeping the front step open) in an effort to increase revenue for the NPCC. . Devor proposed the sale of retail plants to increase profitability and provide an aesthetically pleasing addition on the street.

Ms. Elwell said outdoor retail would help deter the use of the stoop as a constant gathering space and noted the positive results from their outdoor art display last weekend. On a related issue, the Board indicted that there is a lot of activity by the alleyway between this building and Mr. Downs' property and requested the applicant find out who is responsible for that area and discuss ways to better control the door to the alleyway (construction) and keep that area clean.

There was a brief discussion about the construction of the shelves (e.g. wooden structure would be prone to graffiti and carvings) and the fact that temporary structures removed after business hours would not prevent people from congregating in the area after dark. Ms. Walsh asked if they could use a temporary bench for plants during the day which would be removed at night for this season and then re-evaluate the situation next year.

The Chair said he was reluctant to support any out-of-doors business activities that impacted on pedestrian walkability and pointed out that this property was on a particularly narrow sidewalk. Ms. Elwell emphasized that it is the responsibility of the cultural collective to insure that the sidewalks remain passable in front of the store. Mr. Danskin added that the police were extremely amenable to helping them with this situation.

Board members noted that changing the facade would be best treated as a separate site plan issue so as not to delay approval of the special use permit. The applicant agreed to separate the two issues and return to the Board with a more detailed, clear and accurately scaled diagram/model for the stoop if they chose to pursue a structural addition.

There was a brief review of last week's discussion on hours of operation (Tuesday - Wednesday 10am-11pm; Thursday - Saturday 10am-midnight/1 am; Sundays 10am-7pm) and refuse removal (composting coffee/tea; recycling plastic/paper, disposing trash in home receptacle with plans of renting dumpster from Cabaloosa and Oasis).

A motion by was made by Mr. Curran to approve the application allowing the cultural facility to display and sell art work, present artistic performances and serve non alcoholic beverages, pre-packaged baked goods and ice cream on the premises of 60 Main Street with the following conditions:

1. No alcoholic beverages are allowed
2. No amplified music and dancing by patrons are allowed
3. Plants and flowers offered for sale may be temporarily displayed on the upper level of the concrete stoop at the front of the store until October 31, 2006. Continuation beyond that date will require approval by the Planning Board
4. The management of the establishment must take all reasonable and lawful measures to prevent the use of the stoop from impeding pedestrians' use of the public sidewalk.

This motion also included a Negative Declaration (no environmental impact). The motion was seconded by Ms. DuBois and carried unanimously by the Board.

PB06-16: Bart Colucci/Farmers' Market New Paltz (FMNP). 28 Main Street. [SBL: 86.33-3-8 (G)] Special Use Permit and Gateway Review: Hold outdoor Farmers' Market on Sundays from 6/18/06-through the end of October.

Applicant Present: Bart Colucci, Doris Colucci, Jay Armour (FMNP member)

The applicant provided detailed information about their participation in the federal funded WICS programs that provides coupons to specific populations (unmarried women with children, seniors) that can only be redeemed at a farm market. Mr. Colucci also explained the strict guidelines and regular inspections sponsored by the NYS Department of Agriculture and Market, the Farmers Market Nutrition Program

A letter from the NYSDOA explained that the FMNP is a not for profit group where the individual participants pay fees to cover the cost of advertising and banners.

The FMNP was originally approved to use the Elting Library parking lot and relocated to 28 Main Street last fall during the library's renovation. Although the library would like the market to return, the FMNP membership prefers to stay at this location since they experienced a more profitable season due to the increased walk-in traffic and local participation at this location.

The board reviewed in detail the set-up and conditions of the previous approval for the library site including the agreement and responsibilities of the vendors regarding agricultural products, food, baked goods, organic labeling and signage, flowers/plants, state and local regulations (e.g. dairy products are overseen by the DOH), guidelines for conducting the farmers' market in a safe and sanitary manner, assuring fresh quality produce and providing educational outreach workshops. As a producer-only farm market, there will be no other retail merchandise sold, such as T-shirts, arts and crafts, etc.

In addition, the Board reviewed the physical appearance of the market, including the number and appearance of the canopies (number of tents/similar canopies); the visual impact on the area (considered to be small since it was not close to the sidewalk and had trees around it), parking for vendors (Mr. Gottlieb's lot) and customers (Bank parking lot and general spaces around the village), vendor set-up (some work directly out of their trucks) and clean up (responsible for removing everything up at the end of the day).

To insure consistency among applications, the chair asked the board if they required a plot plan to show the location of the tents and parking layout for this application. He pointed out that these items were required for another application in the Gateway which did not fit the same strict definition of a farmers' market (by including other types of retail merchandise) presented here this evening.

Mr. Curran remarked that although both applications requested a special use permit for a temporary, seasonal, market in the Gateway district, there were certain dissimilarities in use (farmers market versus flea market) and on the visual impact on the Gateway district. He felt a substantial difference in evaluating the applications was that one site was highly visible, exposed and directly on Main Street while the other one was set back and much less visible. Ms. DuBois felt that the Farmers' Market was visible from Main Street but less visible from other vantage points due to the surrounding trees.

Mr. Curran continued that at the initial FMNP application was presented, the most significant issue was how the structures would be put up and how they would appear. This was more important than the actual layout. As a frequent visitor to the FMNP, Ms. Elwell said, for the record, that there is uniformity in the types of structures used and the way they are maintained. She said she would not have a problem approving another such producer-only Farmers Market that was going to be as well organized and maintained in the same manner.

She said that this particular market did go through site plan approval and all these issues related to the uses and how they would present themselves were addressed (including the description of the types of structures) prior to its opening at the library parking lot. She noted that although the library is not in the Gateway district, it is located at a highly visible corner in the Village.

She further observed that when the market relocated to the Gateway district, it maintained its original character and qualities. Since the applicant is not intending to make any changes in the previous consistency in uses and structures.

Mr. Curran felt that consistency between this application and any other application that comes before the Board needs to be upheld. He summarized that (1) an initial review was made, (2) there has been a year to verify that consistency had been maintained and (3) there is a further commitment to maintain that consistency going forward (into a new location). He felt that this (process) produces the kind of certainty and knowledge (of what is being approved) that should be applied in other such applications.

There was additional discussion about the number of potential vendors.

The Chair clarified that although the special use permit would be permanent (not requiring annual renewals), since the property was not owned by the applicant, it would always be contingent upon the owner's written agreement with the applicant.

Mr. Curran made a motion to approve the special use permit subject to the following conditions:

1. Operation of the market must be limited to Sundays during the period starting June 10 and ending October 31 within any calendar year.
2. The hours of operation must not be earlier than 10:00am and not later than 3:00pm.
3. The maximum number of vendors on the site must not exceed fourteen at any one time.
4. The sale of arts and crafts items and other non-farm related products is not authorized.
5. The operation of the market must be in accordance with the Rules and Regulations as submitted as part of the application for this permit.

This motion also included a Negative Declaration (no environmental impact to the community). The motion was seconded by Ms. DuBois and passed unanimously by the Board.

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.

The Chair noted for the record that he had met with Mr. Toscani and Mr. Valdina last week to review some affects of this project. At that time Mr. Toscani said he would be changing the parking for this project from across the street to 123 Main Street.

Mr. Danskin reviewed the facts listed in the recently enacted moratorium on certain construction in the village. Since the application of the law was not clear regarding various aspects of on-site and off-site requirements, the Chair stated their attorney's opinion that the moratorium would not apply to a privately owned restaurant relying on parking in a privately owned lot in close proximity. Therefore, Mr. Toscani's proposal, as understood by the Board, would not be subject to the moratorium. Although Mr. Toscani believed he was exempt from the moratorium because he had submitted his application prior to the enactment of the local law, Mr. Zierler clarified that exemption was not based on the submission date or status of the application, but on access to either on-site owner parking and/or private off-site parking.

The chair summarized the comments and concerns from the public concerning noise and car headlights and reviewed the status and outstanding issues. The applicant needs to provide 33 parking spaces (based on a seating capacity of 110) and confirm the 200' distance from any residential zone and 500' from any house of worship.

The Board required the applicant to provide a letter indicating cross easement to the adjacent lot at 123 Main Street and proof of exclusive rights to the parking lot across the across (Skytop) for a minimum of one year. (By that time the Board would review parking requirements based on any revisions/clarifications to the Village regulations resulting from the current study).

Mr. Danskin stated that although the lot at 123 Main was cleared a year ago, the Board still had not received a drainage report or calculations or a landscaping plan. These two items have been requested by the Board several times and are of great concern to the neighboring condominiums. Since the natural buffers were removed and new ones have not been created, the headlights and noise from cars parking there "unassigned" are major issues affecting their quality of life.

There was some discussion about the 40' wide driveway connecting to Main Street. Mr. Toscani said this parcel had been used as a parking lot for the restaurant since 1995 and was approved by DOT. Since the Board had never officially endorsed a use for this parcel, the Chair recommended contacting DOT to review potential safety issues and recommendations associated with a substantial parking lot. Board members, and condo residents, felt that once 123 was used as an official parking area, the traffic would increase and exacerbate the current impacts.

Mr. Toscani said he would put up a fence to help block the noise and visual impact from the headlights. There was a brief discussion about the height of the fence and Board members indicated that an 8' high fence was preferable to a 6' high fence due to the topography of the site.

When asked about the drainage plan for the parking lot, Mr. Toscani replied that since the area was gravel (not blacktop), a drainage plan was not required for this interim period and that a complete report was going to be conducted for the development of the entire 123 site. Regarding lighting, the applicant said that the area was currently adequately lit but ultimately he would provide low lighting.

Mr. Danskin said that Mr. Toscani could use 123 as interim parking subject to the details and control appropriate to the planning and development of the entire site. Since the applicant had removed the previous buffers, the Board would require that the impact be mitigated temporarily by the installation of a wooden stockyard type fence 8'H. The Board also required that Mr. Toscani to revise his drawing to include the two "low" lights with heights as well as providing the two legal documents previously cited (cross easement from 123 Main Street and an exclusive lease for parking at Skytop for a minimum of one year, preferably two years). There was some discussion about potential recourses for the Board if the site was not completed at the time those contracts expired.

Mr. Toscani said he plans to operate the restaurant seven days a week either from 6am to 4 am or on a 24 hour basis. Citing the new Village code requiring a buffer between a commercial use and residential use, Ms. Elwell said she would prefer to limit the hours of operation temporarily until the permanent (?) buffers are in place at 123 Main Street (which would be based on site plan approval and construction at 123 Main). Members also noted that the principal condition of a Special Use Permit was that it would create no greater impact on the community than a principally permitted use. In this case, most retail establishments close by 9pm and most restaurants close by midnight. The Chair asked the applicant to think about this and reply at next month's meeting.

Because of the precarious nature of funding and development, the Chair said the Board should be prepared to live with whatever is approved now, in perpetuity.

### **Pending Applications:**

**PB0-49: 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 Present: Robert Downs, David Sall, Attorney

The chair said he applicant submitted a schematic layout addressing all the items the Planning Board requested except for parking. Mr. Sall felt that the diagram submitted, showing 38 spaces in the private parking lot behind 58 Main Street, was sufficient to provide the required 19 spaces for the restaurant. Mr. Downs said the parking lot was included in the 58 Main Street parcel.

Ms. Elwell noted that Mr. Downs had received previous site plan approvals for several individual projects at this location which include retail establishments (Endless Horizons, Jacks Record Store, and Cabaloosa) and multiple residential apartments. She explained that even though the parking lot is owned by the applicant, if the prior approvals included the allocation of a specific number of parking spaces in that lot, Mr. Downs could not double count those spaces for this application. If on the other hand they had not been previously allocated, he could now assign them to this restaurant. She would like to review the files in the building department to verify if any or all of those parking spaces had been pre-assigned.

There was a brief discussion about the use of the building and the current status of Cabaloosa.

The Chair said the next step in this process would be to (1) inventory the uses on the parcel, (2) determine the parking requirements for those existing uses (3) verify whether or not the requirements are met at this site and if so (4) ascertain whether there are there any surplus spaces. The results will be discussed at the workshop next month and a public hearing will be scheduled for June 13, 2006. If the Board is satisfied that the parking complies with the moratorium and their Counsel's advice for implementation, the Board will go to the next step. If not, they will follow their attorney's advice to put the application on hold until the moratorium is over.

The Chair provided Mr. Sall with a copy of the moratorium and the opinion from the Board's attorney. In response to Mr. Sall's question, the Chair said he did not know yet whether the moratorium was applicable to this application and knew that Mr. Sall had asserted that it was not. Mr. Sall said that you cannot pass laws *ex po facto*, (e.g. make a law to regulate something that

occurred in the past) and that a moratorium cannot be applied to a previously existing matter. Mr. Sall felt that the opinion from the Board's attorney did not answer the question of whether the moratorium was applicable in this case.

**Proposed Amendment to Site Plan**

PB04-54: Anthony Prizzia. 81 North Chestnut Street. [SBL: 86.26-1-12 (B-1)]

Amended Site Plan

Applicant Not Present

Trey Daniels, Building Inspector, informed the Board of the following three discrepancies between the approved site plan and the current conditions at location:

1. The light fixture mounted over the second floor staircase entrance on the south side of the building included 2 low wattage flood lights instead of metal haloids (?). Mr. Daniels said these fixtures generated less light and glare and are only used occasionally since they are activated by a motion sensor for the staircase.
2. The bicycle rack is out of scale with the approved plans. Since the bicycle rack is portable, Mr. Daniels said the applicant is willing to relocate it anywhere on the parcel as long as it did not interfere with the traffic flow in front of his property.
3. The fence is located at the curb line. Mr. Daniels noted that the applicant felt this location provided more protection to customers at the ice cream stand or traveling along the right of way. The Board noted that the intent of the fence location was to place it on the business side of a "future" sidewalk which is to be constructed, when and if, a sidewalk is installed on the property to the immediate north of this parcel.

After some additional discussion, a motion was made by Mr. Curran to amend the site plan as follows:

- The existing fluorescent flood lights over the second floor entrance way on the south side of the building and activated by a motion detector were approved as a substitute for the lighting fixture shown on the approved plan.
- The existing bicycle rack may be relocated to any location on the site at the discretion of the Building Inspector provided that it does not prevent persons walking within the highway right of way along North Chestnut Street.
- The vinyl picket fence must be removed from its present location and **may** be installed at the location indicated on the approved site plan.

The motion was seconded by Ms. DuBois and carried unanimously by the Board.

**Other Business:**

**Affordable Housing**

Mr. Zierler informed the Board that the public hearing on "Affordable Housing" held by the Village Board was closed and that he had received correspondence from the applicants of Woodland Pond requesting exemption from the proposed law based on its classification and state regulations concerning RCCCs. Members of the Board will reply to Mr. Zierler individually on this issue.

**Adjournment:**

A motion to adjourn was made by Mr. Curran, seconded by Ms. DuBois and passed unanimously by the Board at 9:52 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

pb05-09-06draft.doc