

**VILLAGE OF NEW PALTZ PLANNING BOARD  
REGULAR MEETING  
MINUTES  
March 1, 2011**

**Present:** Maurice Weitman; Chairman  
Tom Rocco  
Rich Steffens  
Linda Welles

**Absent:** None

**Also Present:** Amanda M. Erickson  
George Rodenhausen; Planning Board Attorney

**Call to Order:**

Chairmen Weitman called the March 1, 2011 Regular Meeting of the Planning Board to Order at 7:07pm.

**New Applications/Review for Completeness:**

**PB11-001: Moxie Cupcake LLC, 4 Carroll Lane, New Paltz, New York 12561. Application for Site Plan/Special Use Permit Approval at a property located at 215 Main St. New Paltz, New York 12561. Current use of site is a restaurant and antique shop.**

Joe Eriole spoke on behalf of the applicant. He stated that the application is for a shop/ gourmet boutique bakery for specialty baked goods. The applicant currently runs a successful wholesale business which started in October of last year and has since grown so that she is selling to several businesses in the surrounding area. The proposed space is at the back of the building, known as the Medusa Building, and the type of business is in keeping with the other businesses in the building. It is Mr. Eriole's belief that this application will not have to go to the county as there is no change to the site plan proposed and no changes to the outside of the building. It is also his belief that there will not be a need for additional parking. Mr. Eriole cited 212-41 V and 212-44A2 of the Village of New Paltz Code as reasons for why no additional parking is needed.

The Board agreed that this application does not require input from Ulster County.

Chairman Weitman questioned Mr. Eriole about the need for the seats shown on the site plan.

He believed that the most fitting definition for the type of business is retail use. The idea would be that people would place orders the same way the place orders for birthday cakes. Most people would be picking up their orders and leaving. The other patrons may pick up cupcakes and have a cup of coffee and might stay for about ten minutes. The traffic will be transient.

Chairmen Weitman was concerned that this may be a high velocity distribution center.

Mr. Eriole stated that this space would not be a large enough facility to do large-scale whole-sale distribution.

The hours of operation would most likely be 11am-8pm.

Mr. Eriole stated that the kitchen had been designed with input from the Department of Public Works and Department of Health. The ovens do not require a vent because they are residential grade. A grease trap is required and is present at the site and hooks into the system.

Chairman Weitman moved to adopt the proposed resolution. Ms. Welles seconded this motion. 4 ayes. Motion passed.

**CLASSIFICATION OF ACTION AND DETERMINATION OF SIGNIFICANCE  
REFERRAL TO COUNTY AND SETTING PUBLIC HEARING**

**MOXIE CUPCAKES REQUEST FOR SITE PLAN APPROVAL  
215 MAIN STREET, VILLAGE OF NEW PALTZ**

**PLANNING BOARD APPLICATION PB 11-001**

Date: March 1, 2011  
Resolution No. PB11-001: 1

Moved by: Maurice Weitman  
Seconded by: Linda Welles

WHEREAS, on February 18, 2011, Moxie Cupcakes, LLC applied for special use permit and site plan approval for a change of use to create a cupcake shop in a portion of 215 Main Street, a property currently used as a restaurant and antiques shop; and

WHEREAS, the applicant has submitted a short form EAF dated February 18, 2011, which the Planning Board has revised;

**NOW, THEREFORE, BE IT HEREBY RESOLVED:**

- 1. That the Planning Board determines that the proposed action is an unlisted action under the State Environmental Quality Review Act ("SEQRA") for which a coordinated review will not be performed; and**
- 2. That the proposed action is unlikely to have any potential significant adverse environmental impact and that a draft environmental impact statement will not be prepared; and**
- 3. That a public hearing on the application is hereby scheduled for March 15, 2011, 7 pm, at the Village Hall, 25 Plattekill Avenue, Village of New Paltz, and the Planning Board secretary and applicant are hereby authorized and directed to provide notice thereof in accordance with the village code.**

Ms. Welles: Aye  
Mr. Rocco: Aye  
Mr. Steffens: Aye  
Mr. Weitman: Aye

**Recommendation to Zoning Board of Appeals:**

**ZB11-001: 127 Main Street, LLC, 127 Main Street, New Paltz, New York 12561. The applicant is seeking relief from chapter 212-47 of the Village of New Paltz Code regarding minimum off street parking so that the applicant will only be required to maintain forty-nine (49) parking spaces rather than the eighty-six (86) parking spaces which are currently required.**

Chairman Weitman moved to adopt the proposed resolution recommending to the ZBA that they deny the requested variance. Mr. Rocco seconded this motion. 4 ayes. Motion passed.

**RESOLUTION OF RECOMMENDATION TO ZONING BOARD OF APPEALS**

**127 MAIN STREET LLC REQUEST FOR PARKING VARIANCES  
ZBA APPLICATION # 11-001**

Date: March 1, 2011  
Resolution No. ZB11-001:1

Moved by: Maurice Weitman  
Seconded by: Tom Rocco

WHEREAS, 127 Main Street LLC ("127 Main") has applied to the Zoning Board of Appeals for a variance from the parking requirements of section 212-47 of the village code, requesting a reduction from 86 required off-street spaces to 49 off-street spaces, in connection with 127 Main's application for site plan approval and special use permit for a second floor catering facility at 127 Main Street; and

WHEREAS, 127 Main has also applied for a variance from the requirement of section 212-43G(2) to increase the distance within which off-street parking may be located from 400 feet from the business to an unspecified distance from the business, in connection with the same Planning Board application.

NOW, THEREFORE, THE PLANNING BOARD MAKES THE FOLLOWING FINDINGS:

1. The existing restaurant and bar on the first floor at 127 Main Street received site plan and special use permit approval including off-street parking for the facility provided in the adjacent lot at 123 Main Street; and
2. All the parking spaces at 123 Main Street are needed for the exclusive use of the existing restaurant and bar facility, particularly in light of the fact that the bar attracts a large number of customers; and
3. Parking along Main Street is already over-crowded, and the addition of increased demand for on-street parking would likely have an adverse impact on existing businesses, such as 119 Main Street, which were approved without being required to provide off-street parking; and
4. Allowing required off-street parking facilities to be located more than 400 feet from the business would not alleviate the demand for on-street parking related to 127 Main Street, as few customers would choose to use a parking facility more than 400 feet away. Customers would be more likely to choose to squeeze into the lot at 123 Main Street or jockey for on-street parking.

**NOW THEREFORE BE IT RESOLVED that the Planning Board hereby recommends that the Zoning Board of Appeals (1) deny the requested area variances for a reduction in the required number of off-street parking spaces for the proposed second floor catering facility and (2) deny the requested area variance for an increase in the distance from the business in which off-street parking may be located.**

Ms. Welles: Aye  
Mr. Rocco: Aye  
Mr. Steffens: Aye  
Mr. Weitman: Aye

**ZB11-002: 127 Main Street, LLC, 127 Main Street, New Paltz, New York 12561. The applicant is seeking relief from chapter 212-23 of the Village of New Paltz Code. The applicant is appealing the Order to Remedy issued by the Building Inspector regarding the Special Use Permit condition of, "Amplified Music."**

Mr. Steffens felt that the part of the issue is the claim that the band used the house system and was therefore not amplified.

Chairman Weitman stated his opinion that the house system qualifies as amplified music.

It was decided that the question on the appeal is whether or not the Building Inspector acted reasonably. It is not the Zoning Board of Appeals' job define amplified music.

Chairman Weitman moved to adopt the proposed resolution. This motion was seconded by Ms. Welles. 4 ayes. Motion passed.

## **RESOLUTION OF RECOMMENDATION TO ZONING BOARD OF APPEALS**

### **127 MAIN STREET LLC APPEAL REGARDING AMPLIFIED MUSIC ZBA APPLICATION # 11-002**

Date: March 1, 2011  
Resolution No. 11-002:1

Moved by: Maurice Weitman  
Seconded by: Linda Welles

WHEREAS, 127 Main Street LLC ("127 Main") has appealed the January 24, 2011, Order to Remedy issued by Building Inspector Rodney Watrous, citing 127 Main for a violation of 212-23 of the village code, because of the playing of amplified music by a live band in violation of the special use permit for the facility; and

WHEREAS, the July 18, 2006, special use permit and site plan approval for the facility includes as condition #2: "Amplified music is not allowed"; and

WHEREAS, the Zoning Board of Appeals is authorized by section 212-58B of the village code to interpret any provisions of the village code, but not the terms or special conditions of a resolution of the Planning Board; and

WHEREAS, the term "amplified music" used by the Planning Board in its resolution is not a term used in the village zoning law and therefore not a term the Zoning Board of Appeals is authorized to interpret; and

WHEREAS, the Building Inspector has not acted in an arbitrary or capricious manner in applying the common sense meaning of the term "amplified music" as anything other than acoustic music.

**NOW THEREFORE BE IT RESOLVED that the Planning Board hereby recommends that the Zoning Board of Appeals deny the appeal by 127 Main Street LLC of the Order to Remedy on the grounds that (1) the Zoning Board of Appeals has no authority to interpret the terms or conditions of a Planning Board resolution of approval, (2) the Building Inspector did not act in an arbitrary or capricious manner, and/or 3) the common sense meaning of the term "amplified music" is anything other than acoustic music and was appropriately relied upon by the Building Inspector.**

Ms. Welles: Aye

Mr. Rocco: Aye  
Mr. Steffens: Aye  
Mr. Weitman: Aye

**Minutes:**

**Draft Minutes from the December 7, 2010 Regular Meeting of the Village of New Paltz Planning Board**

Mr. Rocco moved to approve Draft Minutes from the December 7, 2010 Regular Meeting of the Village of New Paltz Planning Board. Ms. Welles seconded this motion. 3 ayes. 1 abstain. (Mr. Steffens) Motion Passed.

**Draft Minutes from the December 21, 2010 Regular Meeting of the Village of New Paltz Planning Board**

Mr. Rocco moved to approve Draft Minutes from the December 21, 2010 Regular Meeting of the Village of New Paltz Planning Board. Chairman Weitman seconded this motion. 3 ayes. 1 abstain. (Mr. Steffens) Motion Passed.

**Draft Minutes from the January 4, 2011 Regular Meeting of the Village of New Paltz Planning Board**

Mr. Rocco moved to approve the Draft Minutes from the January 4, 2011 Regular Meeting of the Village of New Paltz Planning Board. This motion was seconded by Mr. Steffens. 4 ayes. Motion passed

**Motion to Adjourn:**

Ms. Welles moved to adjourn the March 1, 2011 Regular Meeting of the Planning Board. This motion was seconded by Tom Rocco. 4 ayes. Motion Passed.

The March 1, 2011 Regular Meeting of the Planning Board adjourned at 8:20pm.

**Respectfully Submitted by,**

**Amanda M. Erickson, Village Clerk**