

**VILLAGE OF GOSHEN
PLANNING BOARD
Work Session/Regular Meeting
July 20, 2010**

The work session/regular meeting of the Village of Goshen Planning Board was called to order at 7:30 p.m. on Tuesday, July 20, 2010 by Chair Jerome O'Donnell.

Present: Augustine DeRosa
Dominick Igneri
Jerome O'Donnell, Chair
Elaine McClung

Also Present: Ted Lewis, Building Inspector
Mike Donnelly, PB Attorney
Art Tully, PB Engineer

Kelley Jean's Restaurant/Bar, 145 North Church Street, #111-8-1, C-S/ADD.

Representing the applicant: Steve Esposito
Gardiner Barone, Esq.

Mr. Donnelly gave a history of the application and the role of the Village Board and Village Planning Board stating that the Village Board determines what uses are permitted in a particular zoning district and what bulk requirements apply to those uses and the Planning Board looks at projects, determines if the use is allowed in the district and if it meets the bulk requirements and then reviews and processes the application, addressing issues to make a better and more pleasing layout for the citizens of the village.

The Village Board determined how to handle existing buildings that don't comply with setbacks by providing a provision in the code that states if a non-complying building has existed since March 9, 1998 those buildings are permitted to continue without getting a variance from the bulk requirements. To see that there is not a dramatic change in the use, the PB is required to look at the uses in existence as of March 9, 1998 and the bulk requirements for those uses and compare it to what is proposed today. If what existed in the bulk table requirements on that date lines up with what is proposed today then the building and the new uses are permitted to continue, he said. A site plan approval is required whenever there is a change of use that affects parking, drainage, etc.

Mr. Donnelly said the purpose of the hearing is for the public to deliver comments to the PB.

Mr. O'Donnell opened the public hearing at 7:40 p.m. and said that the PB has received several letters from residents and is going to put these letters in with the Minutes.

Mr. Esposito described the applicant's proposal as a family restaurant with a sports flavor, with restaurant and bar seating located in the CS (Central Shopping) District. He said the kitchen will be open until 10 p.m. He said the project is a mixed use application, for retail, restaurant and an apartment. He said applicant Kelley English of Goshen is in contract to purchase the building from Mary St. Onge and Peter Garrison who owned the building and the business known as The Baby Place.

Mr. Esposito said the applicant first met with the PB in March of 2010. He said that since the property is also in the ADD (Architectural Design District) it is subject to review by the Village consulting architect Wheldon Abt. He said that Mr. Abt found the application in compliance with the ADD requirements. He said the application has also been reviewed by the Village Engineer along with the PB. In March, 2010 the PB asked the applicant to prepare an analysis of the building's proposed uses in comparison to the uses of the building in March 9, 1998. The PB also asked the applicant to address the concerns of the Village Police Chief as outlined in a letter to the PB dated March 11, 2010. Mr. Esposito said he met with Chief Watt on May 14, 2010 to discuss his letter

and proposed mitigations. Mr. Esposito read from the letter outlining the Chief's concerns.

The Police Chief wanted the applicant to address adverse impacts such as parking, increased automotive traffic and pedestrian traffic. Mr. Esposito said there are 500 public metered parking spots in the CS District and another 100 quasi public parking spaces. He said there are 69 public parking spaces just 100 ft. from the building. He said their analysis shows that the project will not increase the demand for parking from the uses that were in existence as of March 9, 1998 and that in fact the actual proposed use will have a little less traffic than in 1998. In regard to an increase in noise, Mr. Esposito said that all patrons will access the restaurant off of N. Church St. and that there will be no operable windows on the West St. façade bordering the residential district. He said the walls will be insulated and a dumpster built into an enclosure that will be secured and screened. Hours of garbage pickup will be limited, from 8 a.m. – 5 p.m. Monday through Friday. He said the restaurant will take two-thirds of the building with the remainder used for rental. He said that in regard to quality of life concerns, there are 21 eating and drinking establishments in the CS District, with eight serving alcohol. He said the applicant is targeting a clientele, "like you and me" that will not contribute to the criminal activity in the Village. Mr. Esposito said the plan proposes two additional street lights. He said that the air conditioning units will not be on either street but will be located on the roof or in the courtyard. Smoking will be prohibited along the two streets but a smoking area will be provided in the rear courtyard.

Mr. Esposito said that mitigation suggestions were discussed with the Police Chief who submitted a new memo, dated May 17, 2010 stating that the applicant had addressed his concerns, with one exception having to do with a request for a detailed design of the building which the Building Inspector will review with him. A meeting was held with the Fire Chief who reviewed the plans and is supportive, Mr. Esposito said.

Mr. Esposito spoke about his analysis of the bulk requirements of the non-complying building, comparing the proposed uses with the requirements of the uses as of March 9, 1998. He said there is "a zero increase" in any of the bulk requirements and said they looked at the intensity of use relative to parking, sewer use, water use and vehicular trips. He said they evaluated the requirements based on the square footage of the building and that in 1998 the building required 39 parking spaces and requires 39 parking spaces with the proposed use. The applicant is not changing the footprint of the building, he said. Relative to sewer demand, in 1998 the building generated 12,470 gallons a day and the proposed use will use 2,735 gallons a day or more than 10,000 gallons per day less, Mr. Esposito said. The same figures pertain to water usage. As for traffic, the 1998 usage generated 51 trips per day as compared to 40.6 trips per day for the proposed use. It was concluded in April that none of the thresholds that require site plan approval were crossed or exceeded by the application but the applicant decided to seek site plan review approval anyway, Mr. Esposito said.

On May 14th Mr. Esposito attended a TAC meeting with the chair of the PB and other members, the Village Engineer, Village Building Inspector and Chief of Police. At that meeting the applicant's plans and analysis were reviewed and a list of mitigating measures developed that the PB would impose if and when it approved the project. Everyone concurred with the mitigations, Mr. Esposito said, and listed them as: providing building elevations and drawings showing what the building will look like, locating the dumpster on the plans, restricting the garbage pickup, showing a smoking area on the plans and prohibiting smoking on the street, showing handicapped parking spaces, locating air conditioning units on the roof, showing the bulk table on the plans, providing a letter from the DEC stating that no further action is required, showing a floor plan of the restaurant, stating on the drawings that there will be no operable windows on the first floor of the West Street side of the building, that the exterior walls will be insulated and stating the hours of operation on the plans.

Mr. Esposito showed the proposed renovations and layout (2400 sq. ft available for rent, 2800 sq. ft. for the restaurant and 1300 sq. ft for the kitchen). He said the applicant wants to relocate the entrance of the apartment from N. Church Street to West Street.

Mr. O'Donnell opened the meeting to comments from the public at 8:15 p.m.

Mr. O'Donnell mentioned that Jane Bogart-Schmidt had left her written comments with the PB.

Michelle Zernone said she resides on North Church St. within walking distance of the building. She said her family recently bought their house, are renovating it and investing in the community. She said she moved here with small children for a reason and didn't move here to have a sports bar within walking distance. She said the way the project is being presented is "most upsetting" saying that family restaurants do not have kitchens that close at 10 p.m. and a bar closing at 2 a.m. "It should be presented exactly in the way it really is intended," she said. Ms. Zernone said she moved here for the quality of life and is very concerned about the drinking, the parking and children walking downtown in front of a bar with people drinking. She said she doesn't believe that smoking can be corralled, adding that no one owns the outside and people will smoke outside. Ms. Zernone said she thinks it is admirable for a young person to open a business, but as a resident, mother and principal of a school in the county, she has an issue with this kind of business opening in a business district set in a residential neighborhood.

Velma Eisma of 18 West St. said that the lack of adequate parking is a concern and suggested that patrons will park on residential streets, certainly on West St. The site borders on residential properties, she said, and asked if the two uses are compliant, stating that the Village ERB asked the same question. "Don't insult our intelligence that this is a family restaurant," she said, and noted that between the hours of 12 a.m. and 3 a.m. is when criminal activity takes place, DWIs, fights and heavy drinking. She suggested that the establishment doesn't have to be open until 2:30 a.m. Ms. Eisma asked the PB to look at the environmental impact that the bar/restaurant will have on three neighborhoods. She said there will be an impact on the sewer system, and that the Village hasn't yet addressed the current sewage situation. She said she doesn't believe that the project will only add a little more sewage. Ms. Eisma said that from the traffic light at Main & Church St. to the top of Murray Ave. there are 15 entrances onto N. Church St. and said she knows the project will be adding more traffic to an already congested area.

Lynn Welge, 36 Murray Ave., said she is concerned about the safety of the 20+ young children in the neighborhood who run up and down Murray Ave. on scooters and bicycles. She said that the people on Murray Ave. are concerned about the parking, wondering where the patrons will park and also concerned about the firemen having a place to park when they return from calls. She said that if the project is a restaurant she wishes the applicant well but that if it is a sports bar, "we have a whole different thing" and noted there has been a lot of acrimony in the Village about the project. She asked what the 2 a.m. closing meant and Mr. Esposito said that "this is the first business that has hours of operation. There is nothing in the Village code that regulates hours of operation." Mr. Donnelly said that hours of operation of a bar are set by the State, with a 4 a.m. closing, and that the Village is pre-empted by the State. If the hours are made a condition of the resolution, then the Village can enforce it, he said. Ms. Welge asked if it is a restaurant or a sports bar. Mr. Esposito said it is a restaurant. Mr. Donnelly said that the Village classifies this as an eating and drinking establishment and that a restaurant and a sports bar both fall within the mantle of an eating and drinking establishment, and either would be permitted in a CS District. Ms. Welge said there will be more intensified parking if it is a sport bar because there will be a concentration of parking for about four hours during a game. Mr. Esposito said that the applicant will have to educate her patrons about where they can park. Mr. Esposito said the hours of operation are Sunday through Thursday – noon to 10 p.m. for the kitchen and Friday and Saturday noon to 12 a.m. with closing no later than 2 a.m. any night.

Laurel Eisma said she co-owns 18 West St. and would normally support the plan if it wasn't across the street from her house. Ms. Eisma said she purchased a home across from commercial property that had been used as retail and service, so she assumed the Village would allow businesses of a like-kind. Ms. Eisma said she never intended to purchase a home across from a bar and doesn't want to live across from one now. She said she sees the proposal as a bar whose market will be primarily people in their twenties and is concerned with what will be going on between the hours of midnight and 2 a.m. Ms. Eisma noted that West St. is part of the historic district, stating they are held to a higher standard. She said she has owned the home since 1999 and that bringing an 1800 home back to life is an enormous financial responsibility. She wants the PB to consider the effect on the quality of life of West St. residents and the surrounding area. She said it will have a negative impact and questions if this is the optimal location for a bar at the beginning of the residential sector. If allowed, the PB is telling the residents of the Goshen area that they don't count and that only big business does and that the decrease in the value of their homes and the efforts of the residents are not considered.

Kathleen Schmidt of 24 West St. read from a letter she wrote to the PB. She asked the PB to give further study to the adverse environmental impact that the sports bar will have on the quiet residential neighborhood. She said that considering its occupancy of 67 people, she believes there will be an increase in intensity of demand in parking in an area with minimal access for parking. She expects that patrons will park in front of the homes on West Street and asked if there is anything the PB can do to alleviate the parking congestion. She said she is concerned about the noise caused by patrons parking on residential streets and leaving as late as 2 a.m. She asked how the noise and odors from the kitchen and smoking area can be minimized. She said she feels residents are entitled to be free of excess noise during the late evening and early morning hours and asked who will monitor the noise.

John Schmid of 24 West St. asked if it is possible to have "Residential Parking Only" signs on his side of the street and have the police enforce it. He said he is concerned about cooking odors and noise as people leave the bar and said he already hears the noise of patrons leaving the bars on Main Street. He said he worries that his house will lose value and suggested that his family will probably sell their house if it gets too noisy.

Joel Markowitz of 29 Wickham Ave. said he wanted to remind the PB that they enforce the code and that it has been established that the plan meets the code. He mentioned that the Village does not have a requirement of a buffer zone between a CS zone and a residential neighborhood and suggested that the PB might take that up with the Village Board. He said that it is not the PB's job to make the people who have bought homes at the edge of the CS zone whole and said that "to suggest that this, because it borders residential homes where people have an investment of greater value, that this shouldn't be allowed, but is okay in the central village strikes me as the most abject kind of discriminatory attitude."

Eugene Degan of 121 Webster Ave. said the reality is that what are successful businesses in the downtown villages like Goshen are the cafes, restaurants and bars. People who have owned property in the Village have a right to liquidate that property, Mr. Degan said. The decision here is not just about this building but the impact on all commercial property in Goshen, he said, adding that if the perception is that Goshen is discriminatory towards commercial property, every commercial property in the Village will drop in value and it will be harder for businesses in the community to sell their property. He called the business community an important minority in the Village and said that the great things that happen in the community come from the business community such as the Tour De Goshen and the Great American Weekend. He said he has raised six children a block from a bar/restaurant in Goshen with no problems. A viable business community benefits every residential homeowner in the Village, he said.

Brian Meany, downtown business owner and resident of 4 Whitetail Drive, said it is important as a community to look at its children who may want to open a business. He said he is a friend of Mr. English whose daughter wants to invest in Goshen. She grew up here and went to school here and wants to live here and have a business here and that is commendable. He said that the zoning allows this particular type of restaurant and it is appropriate for the PB to approve it.

Joe Matta, a Goshen resident and business owner, said he was raised three blocks from the site and that when he was growing up there was a garage, a gas station and a train that ran through Goshen close to West St. at all different times of the day and night. "We all co-existed, we acclimated ourselves to it and survived." He said that while change is sometimes difficult to accept and there have been emotional reactions to the project, this is not an emotional decision, saying that the applicant appears to have met and gone beyond stringent criteria.

Robert Eustace of 21 William St. said he bought residential property bordering a car wash in a commercial district. He lived there 25 years and then the owner wanted to put a 2000 lb. propane tank there. As a fireman, he said he knows what can happen when a propane tank goes bad and he didn't like it and has sympathy for the neighbors who don't like this project. He said that every one of his neighbors were against the addition of the propane tank, but that it was approved because the property was zoned for it, it was compliant and if compliant, there is a legal obligation to approve it.

Mary St. Onge said she is the property owner and owner of the former Baby Place. She said it bothers her to see the division that has occurred by what she sees as a positive step for the community. "In the Village we have wonderful fire and police and we have stringent building inspection and if there are situations that arise that you are not comfortable with and cannot mitigate with discussion, then you have very strong resources," she said. It is much better to see a beautiful investment in the Village than to see an empty building, Ms. St. Onge said. Residents may find that their property values will not go down because current investment will increase property values more than an empty building. She said she believes in what the applicant wants to do and that there is a future in Goshen for investment. "I hope you will see it in a positive spirit, as a new opportunity for the Village to have a wonderful looking village and vibrant downtown that will support everyone."

Neil Hickok, 59 West Main St., said that if the project meets the criteria, then the PB should approve it and that the applicant should not be punished for transgression of others who might be bad neighbors.

VOTE BY PROPER MOTION made by Mr. DeRosa, seconded by Mr. Igneri, the Village of Goshen Planning Board closes the public hearing on the application of Kelley Jean's. Passed unanimously.

Mr. O'Donnell opened the regular meeting at 9 p.m.

The Planning Board discussed the application of Kelley Jean's.

Ms. McClung said she wanted to learn more about the sewage issue because it has been referenced in letters to the PB. Mr. Tully said there are two different issues. One is that the applicant compared sewer flows under normal circumstances, comparing the proposed use to what was done in the past, and using DEC design figures, came up with what they expect to use which is 10,000 gallons less per day than what was used previously. The second issue, he said, is that during periods of heavy rain there are areas in the Village where sewage comes out of manholes and that West Street is one of those locations. The Village is working with the DEC to remedy those problems and the

Village is currently studying an alternative that will alleviate the surcharging on West Street, he said. "During rain storms there is a problem but it is not a problem particular to

this property or any one property but is endemic in the Village and is a problem that the Village has to address," Mr. Tully said.

Mr. Tully said that sidewalks and curbing will be reconstructed as part of the application. Mr. Esposito said he will be continuing the same streetscape as is in front of Chase Bank, that there will be new curbing, plantings between the sidewalk and the building and a turf area between the curb and sidewalk, four period-lights, two additional trees and a new sidewalk along West Street.

Mr. Donnelly said that if the PB determines that environmental impacts have been mitigated to the maximum extent practicable, then the PB may issue a negative declaration under SEQRA.

VOTE BY PROPER MOTION made by Ms. McClung, seconded by Mr. DeRosa, the Village of Goshen Planning Board issues a negative declaration in terms of SEQRA on the application of Kelley Jean's. Passed unanimously.

Mr. Donnelly said that an anticipated completion date would have to be provided. Mr. Esposito said that the project could have an anticipated completion date within 24 months, or by July 20, 2012.

Mr. Donnelly said that there should be a condition in the resolution that all of the mitigation measures shown on the plan (13 conditions) specifically be made conditions of the approval and enforceable if violated as if they were violations of the ordinance itself.

He said the applicant will have to file a performance standard affidavit and that there will be bonding required for the sidewalk.

It was noted that if the property owner sells the property to a second party, the conditions will run with the approval and the land as long as it is the same use.

Mr. DeRosa said he appreciated that the public came out to present their pros and cons and that the residents close by made some valid comments, but that the application meets the code. He said he encourages people to go to Village Board meetings to get things changed if they think things need changing.

Mr. Igeneri said the application is in compliance with the code and that is what he is there to do as a PB member. He said he likes to have the public know what is going on because that is what makes Goshen such a good village.

VOTE BY PROPER MOTION made by Mr. DeRosa, seconded by Mr. Igeneri, the Village of Goshen Planning Board grants site plan approval of the application of Kelley Jean's with the conditions agreed upon. Passed unanimously.

Work Session Request – Sketch Plat – Concept Plan – South Church Street, #112-5-1.2 & 3, R-1 Zoning District

Representing the applicant: Steve Esposito, Mike Walker

Mr. Esposito said the applicant proposes to build 19 single family homes on a 12.5 acre parcel, zoned residential. He said the lots will vary in size with the minimal lot size of 1500 sq. ft. There are federally regulated wetlands on the site that will be avoided. The homes, to be constructed by the applicant, will be served by central water and sewer. The proposal calls for one boulevard entrance into the site with an interior loop inside and back out again. All lots will be accessed on the interior road, not South St., Mr. Esposito

said. Mr. Walker said he is anticipating 2,000 – 2200 sq. ft. homes with three bedrooms and a two-car garage.

Mr. Donnelly said it should be stated for the record that the County Health Department is not granting any water main extensions for any development within the Village at this time. Mr. Tully added that it includes water mains of a public or private nature.

The PB indicated that the concept is “nice so far”.

Work Session Request – CAK Properties, LLC, West Main Street, #111-15-17, C-S Zone. Existing conditions plan, floor plan sketch, analyses comparing pre-existing uses as of 3/9/98.

Representing the applicant:

Steve Esposito & Jake Kriney

Mr. Esposito said the applicant, Jake Kriney, wants to move an Asian restaurant into his existing building on Main Street (the former Marker Building). No liquor will be served. The applicant submitted the site plan with the bulk table requirements. It is a non-conforming building but we aren't increasing the non-conforming bulk requirements, Mr. Esposito said. An analysis prepared for the PB shows there is no increase in the non-conforming bulk requirements in regard to parking, Mr. Esposito said. The uses of the building in 1998 required 29.5 parking spaces and the new use will require 29.5 parking spaces. Mr. Kriney presented a sketch of the interior showing 24 seats.

Mr. O'Donnell said it is a permitted use in the CS District. Mr. Donnelly said it is a non-complying building and the question is whether there is a site plan threshold trigger. He said the only increase is in vehicular traffic with an anticipated seven additional trips a day but that the standard is whether there is an increase that will significantly affect the characteristics of the site. It is the applicant's position that no threshold requiring site plan review has been triggered. If the PB thinks a site plan trigger has been met, then the applicant will have to submit a full blown site plan for review, Mr. Donnelly said.

VOTE BY PROPER MOTION made by Mr. Igneri, seconded by Ms. McClung, the Village of Goshen Planning Board determines that no site plan approval is required on the application of CAK Properties, LLC because no threshold is exceeded.
Passed unanimously.

MINUTES

The Minutes of the PB Meeting of June 22, 2010 were approved with a correction upon motion made by Mr. DeRosa and seconded by Mr. Igneri.

ADJOURNMENT

The Village of Goshen Planning Board meeting adjourned at 9:45 p.m.

Jerome O'Donnell, Chair
Notes prepared by Susan Varden