

Regular meeting of the Village of Brockport Planning Board was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Tuesday, November 2, 2010 at 7:00pm.

PRESENT: Chair Charles Switzer, Member R. Scott Winner, Member Annette Locke, Member Arthur Appleby, Member Bernard Daily, Clerk Pamela W. Krahe.

EXCUSED: Building/Zoning Officer Scott C. Zarnstorff

ALSO PRESENT: Village Attorney David Mayer, Village Engineer Jason Foote, Kris Schultz, Larry Fenity, Dr. Carolyn Orr, Richard Miller, Greg Ketchum, Ellen Bahr, Bob Webster, Joan Hamlin, Jim Hamlin, Pam Ketchum, Margay Blackman, Carol Hannan, Mayor Castaneda, Norm GianCursio, Fred Webster, Pete Smith, Susan Smith, S. Hale, A Butler, Angela Markham, Ute Duncan, Kevin McCarthy, Valerie Ciciotti, Glynne Schultz, Carol Dolan, J. Davis, Eric Koke, Donna Weaver, Mr. and Mrs. Corey Perry, Kathy Goetz, W. Bruce Leslie and numerous others who did not sign in.

CALL TO ORDER: Chair Switzer called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Switzer called for a motion to approve the minutes of the previous meeting.

➔ Member Locke moved, Member Appleby seconded, carried 4-0 with Member Winner abstaining due to absence to approve the minutes of the special meeting held October 18, 2010 as written.

OTHER BUSINESS:

The Board discussed moving meetings to the third Tuesday of the month. Next regular meeting would be December 21, 2010. Special meetings will be 2nd Tuesday if necessary. (Note: reminder that 2nd Tuesday conference is booked.)

➔ Member Appleby moved, Member Daily seconded, unanimously carried to host regular meetings the third Tuesday of the month beginning December 21, 2010.

CORRESPONDENCE: None

PUBLIC HEARINGS OLD BUSINESS:

1. Application of:	Name:	Dr. Carolyn Orr
	Address:	24 East Avenue
	Owner of record:	Orr Clan Properties, LLC
	Tax Map #:	069.37-1-2
	Zoning:	Business
	Parcel Size:	120.78'x269.28'
	Property Class:	330
	Purpose:	site plan – construction of a 3,898 sq. ft. veterinary office along with parking for an additional 12 vehicles

Applicant Presentation:

Kris Schultz of Schultz Associates explained Dr. Carolyn Orr wishes to construct a 3898 sf veterinary office along with parking for 12 additional vehicles at 24 East Avenue. Changes have been made to the plans per recommendations of Village Engineer Foote and Monroe County. DPW Superintendent Donahue has reviewed and approves of the plans. The project architect is in attendance tonight. Plans submitted tonight reflect all changes.

Chair Switzer asked about the stability of earthwork, which had been a previous concern. Mr. Schultz stated this will be coordinated with the Building Department and construction team. Engineer Foote noted he would review the revised plans. He also noted the new bldg will be going over the old foundation. There was discussion regarding the non-virgin ground and the foundation. Mr. Schultz assured that when excavation begins, they will watch that, will coordinate with Building Inspector Zarnstorff, and, if necessary, they will dig deeper.

Chair Switzer called for a motion to open the first public hearing.

➔ Member Appleby moved, Member Daily seconded, unanimously carried to close the regular meeting and open the public hearing at 7:09pm.

Chair Switzer asked Clerk Krahe to read the legal notice. The notice was read.

Clerk Krahe stated the legal notice was published in the Suburban News which is the Village's official paper, was posted on the Village's official website, posted at Village Hall and, as a courtesy, was sent to those property owners within 500 feet of the proposal.

Clerk Krahe read NYCOM's guidelines for public comment:

Address: 52 State Street
Owner of record: Kathleen Miller

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Tax Map #: 069.53-2-7
Zoning: Business
Parcel Size: 82.5'x155'
Property Class: 483
Purpose: change of use to allow a 1st story and a 2nd story apartment

Chair Switzer asked applicant Miller if he wanted to have the site visit now. Member Winner indicated he did not intend to go on a site visit this evening.

Applicant Presentation:

Rich Miller stated he owns 52 State Street which is located in a business district. He reminded the Board the Code allows for 2 apartments with a maximum of 800 sf each, and that 25% of the square footage must be devoted to commercial. He said he had previously submitted plans for Suite D on the 2nd floor and Suite B on the 1st floor.

Chair Switzer called for a motion to open the second public hearing.

➔ Member Winner moved, Member Appleby seconded, unanimously carried to close the regular meeting and open the public hearing at 7:29pm.

Chair Switzer asked Clerk Krahe to read the legal notice.

Clerk Krahe stated the legal notice was published in the Suburban News which is the Village's official paper, was posted on the Village's official website, posted at Village Hall and, as a courtesy, was sent to those property owners within 500 feet of the proposal.

Clerk Krahe read NYCOM's guidelines for public comment:

- The public shall be allowed to speak only during the Public Comment period of the meeting or at such other time as a majority of the Board shall allow.
- Speakers must step to the front of the room
- Speakers must give their name, address and organization, if any.
- Speakers must be recognized by the presiding officer
- Speakers must limit their remarks to 5 minutes on a given topic.
- Speakers may not yield any remaining time they may have to another speaker.
- Board members may, with the permission of the Chair, interrupt a speaker during their remarks, but only for the purpose of clarification or information.
- All remarks shall be addressed to the Board and not to any member thereof.
- Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste.
- Interested parties or their representatives may address the Board by written communication.

In addition, Clerk Krahe noted that anyone reading a prepared statement who wishes to have it inserted into the record should submit such statement to her electronically.

Public Comment:

Carol Hannan, 292 Main Street. She received a phone call from Pat Kutz of Lift Bridge who could not be here. Ms. Kutz requested on behalf of some of her patrons and herself consideration for this decision and the traffic and impact on her store. Mrs. Kutz stated she had information on the moratorium and she wished to pass it along to the Planning Board. Chair Switzer indicated that information should go to the Village Board but the Planning Board will accept it on behalf of the Trustees and will forward it.

Mr. Leslie, 54 Park Avenue. His property backs up to 52 State Street. He had an unfortunate experience with Mr. Miller, where Miller took down trees, said he would put trees back in but instead put in a dumpster. It is unloaded on weekends and disturbs the quiet of the neighborhood. Asked the Board for their consideration.

Kathy Goetz, 63 Park Avenue, Historic Preservation Board member, has been on the Historic Preservation Committee of Western Monroe County. Referred to wanting to maintain the historic aspects of village. Stated she had looked at similar communities with rental units and how that impacts the historic character. She spoke with the Code Enforcement Officer of Fredonia, who indicated that those who suffered the least impact were those with strong code enforcement. He said having an ordinance is fine, but you need the Code Enforcement to back it up.

Pete Smith, 54 South Street. He rented from Rich Miller for 4 years in a combination commercial building with 4 tenants attached. Stated Code Enforcement is key and that you will get the lowest standard possible from this building owner. Said this application will not do the village any good.

Pam Ketchum, 91 Park Avenue. Gave board members a blank copy of a petition circulated this weekend. Has 150 signatures so far. Asked the Board to table the request of Rich Miller to convert his
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building at 52 State Street for the reasons as read from the petition:

“We request that the Village Board issue a moratorium to study and make a plan for the development, use and care of the historic core of the Village of Brockport. It is a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational and general welfare of the public. We need to:

- Protect and enhance the landmarks and historic districts which represent distinctive elements of the Village of Brockport’s historic, architectural and cultural heritage.
- Foster civic pride in the past accomplishments and future use and development of Brockport’s historic core.
- Protect and enhance the Village of Brockport’s attractiveness to visitors and the support and stimulus to the local economy that visitors provide.
- Ensure and plan for orderly, harmonious and efficient growth within the Village of Brockport that will allow all buildings to have peaceful enjoyment and value enhancement.

We must make sure that the development of one property is neither to the detriment of others in the neighborhood nor to the rest of the village that radiates from this historic core of our community.

The development and use of this building and others in the historic core must be guided in a planned manner that insures that the historic, landmark buildings in Brockport will be care [sic] for and promoted. The use of this building or any others should not negatively impact on the peaceful use of other property or the economic value of neighboring properties and the village that radiates beyond.”

Ms. Ketchum indicated she has spent time canvassing neighbors in the historic core area where there is uncontrolled growth of rentals. Talked with those who have invested by buying homes in that area and they are concerned by those buying homes for rental use. Indicated the rules of “no more than 3 unrelated” are not being followed and it seems to be difficult to maintain the rules and regulations. Noted there are many “for rent” signs posted and wondered why we need more. Next year both freshman and sophomores must live on campus. She concluded by strongly recommending tabling this until rules and regulations are put into place regarding development of these historic buildings.

Donna Weaver, 77 State Street, Apartment 1. She is a renter now but used to own and thinks landlords need to live at the property to maintain it properly. She understands people with objections. Has lived here 20 years and notices there are many vacancies. Indicated her father is a landlord elsewhere and finds it difficult to screen tenants. Stated the Planning Board is trying to help plan. Said it’s not about individuals and should not be personal, but it’s hard to maintain property if you don’t live there. Landlords need to be put to task to keep up and people just want to protect a beautiful property. Long-term thinking should be applied.

Angela Markham, 40 Westwood Drive. Has lived here 40 years, there was a big boom in the ‘60s with college students so big, beautiful homes were converted and massacred. Indicated she had lived in big, beautiful homes in the village with her 9 children. Said Clarkson had an overlay plan but that some homes were not saved properly. Brought up this had been Fowler Funeral Home and it is almost a crime to see it turned into rental property. Has heard the saying “As the four corners go, so goes the town” adding we have a lovely downtown and then just a short distance from it is this building looking to be turned into a rental. Concluded by saying she is against conversion until guidelines can be instituted.

Kevin McCarthy, 104 East Avenue. Purchased a home 4 years ago from Rich Miller, who refused to give him the Certificate of Occupancy. Mr. McCarthy subsequently found plumbing and electrical violations and found the tenants were dissatisfied.

Greg Ketchum, 91 Park Avenue. He and his wife own rentals in the village and are in the process of updating them even though they don’t live there. It is impossible to control tenants all the time even though they, as landlords, stop in late at night, unless police are called. Doesn’t want to see 4 or more tenants added to this neighborhood. Remarked they live right next door to two properties they own and that helps as the tenants act differently. Mr. Miller lives in Kendall and it would be hard to know what goes on from that distance. Adding more rentals to an oversaturated market will disturb the peace and quiet. Commented he is not against Mr. Miller, but that drunken brawls may occur in any building at any time.

Rich Miller, Lakeland Beach, Kendall. Current village code says property in the business district can be used for commercial/residential with no more than 2 apartments with a maximum of 800 sf and 2 bedrooms, and he has not asked for any deviation from that code. Said he is following the code and understands from the Building Inspector and the Planning Board that he is within code. He indicated

that many thousands of dollars had been spent on siding, hvac, windows, and electrical, and that the parking lot has been there for 50 years. He asked the Board to consider when they will have a site visit. Wished to say that from the tone of the conversations, he would conclude with this quote from Abraham Lincoln: "Those that deny freedom to others deserve it not for themselves."

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Pam Ketchum, 91 Park Avenue. Code is important. She had the opportunity to see a lease written for that rental for 4 unrelated. One of the tenants verified she had signed a lease for 4 unrelated in that space. Said Mr. Miller didn't follow the rules. Opined we don't have enough people to pay attention to all that goes on, and we can't keep up with the number of tenants we have now.

Chair Switzer thanked all for their comments and indicated the Board will set up a time to see the property. He added final signoff would be necessary from the CEO, and the Board will be guided by Village Code and laws which have to be followed.

- ➔ Member Locke moved, Member Appleby seconded, unanimously carried to close the public hearing and re-open the regular meeting.

Continued Board discussion on application:

Chair Switzer asked Rich Miller about site review. The applicant and members of the Board with the exception of Chair Switzer, agreed on Saturday, November 6 at 10:00am.

- ➔ Member Appleby moved, Member Daily seconded, unanimously carried to accept this as a completed application which includes the revised plans of October 12, 2010.

Member Winner asked Village Attorney Mayer if the site visit is considered a public meeting. Applicant Miller indicated Mrs. Miller would object to the public coming through. Attorney Mayer opined that when a quorum of the Board is present, it constitutes a public meeting. Mr. Miller asked the board to do it in shifts so a quorum would not be present, but Attorney Mayer replied doing it "piecemeal" would not do away with it being a public meeting. The board can limit the number of people there in order to comply with fire code or can ask the public to refrain from attending. Mr. Miller asked to be shown where in the law that was stated and refuted the law would be written in such a manner. Attorney Mayer stated he could get that information. Chair Switzer asked the public to refrain from attending the site visit.

Pam Ketchum inquired about public notice. Mayer noted if the meeting is adjourned, he is not sure if notice must be given. Chair Switzer proposed eliminating the site visit until we get the rules and said it seems the board should be able to see a site without the public being allowed. Member Winner remarked having the public present would encumber the board doing its job but wants to make sure we are following the law. Chair Switzer requested legal guidance as to what the board can/can't do.

A gentleman from the audience stood up and indicated he would like to see the inside of the building and Mr. Miller invited audience members over following the meeting.

Member Winner wants counsel to get back to the board and would like a NYCOM opinion as well. Attorney Mayer stated he would get a memo to the board the next morning.

Mr. Miller asked when he would get his approval after the site visit and Chair Switzer replied the next meeting is December 21. Member Locke noted the petition brought forward earlier tonight needs to go to the Board of Trustees and time would be needed for that.

After some discussion, the Board decided to still conduct the site visit on Saturday, that the petition belongs with the Board of Trustees rather than this board, and that they would call a special meeting Tuesday, November 23 for a decision on this application. Mr. Miller asked Attorney Mayer for the correspondence. Mrs. Ketchum reminded the board there are already set standards and meeting dates, and she wonders if the Board is being bullied into calling special meetings by Mr. Miller. Member Winner took exception, stating the Board is not treating this application any differently that it has any other. The Board reiterated its decision to meet Tuesday, November 23 at 7pm for a special session to continue this application.

NEXT REGULAR MEETING: Tuesday, December 21, 2010 7:00pm
Application materials due by Noon the Tuesday before.

ADJOURNMENT:

- ➔ Member Daily moved, Member Appleby seconded, unanimously carried that the meeting be adjourned at 8:28pm.