

Regular meeting of the Planning Board of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Monday, August 9, 2004 at 7:00pm.

PRESENT: Chair R. Scott Winner, Vice Chair John Brugger, Member Charles Switzer, Member Arthur Appleby, Building/Zoning Officer Scott C. Zarnstorff, Village Clerk Leslie Ann Morelli.

EXCUSED: Member Annette Locke, Village Engineer Tom Carpenter of Chatfield Engineers

ALSO PRESENT: Deputy Village Attorney Frank A. Aloï, DPW Superintendent Bradley B. Upson, Bob & Debbie Ryan, Robert Spahn, Kim Murray, Marv Duryea, Christine Hamlin, Cathy Armer, Tom Ferris, Daniel Kuhn, Linda Borrayo, Norm GianCursio, Fred Webster.

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

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

- ➔ Member Appleby moved, Member Switzer seconded, Member Brugger abstained due to absence, carried to approve the minutes of the meeting held July 12, 2004 as written.
- ➔ Member Brugger moved, Member Appleby seconded, unanimously carried to approve the minutes of the special meeting held July 26, 2004 as written.

CORRESPONDENCE: None

PUBLIC HEARINGS: None

OLD BUSINESS:

1. Application of: Name: Bob Ryan of Ryan's Big M
 Address: 73 N. Main Street
 Purpose: expansion plans

Applicant Presentation:

Bob and Debbie Ryan of Ryan's Big M and Bob Spahn, representing the plaza owner were in attendance to continue review of their expansion plans. B. Ryan provided a copy of the application signed by the plaza owner. He also distributed a sample of the brick face and color proposed for the 3 gates, a picture and description of the flowers for the seasonal landscape bed, an information packet on the proposed light fixtures and an updated site plan and photometric diagram showing how the light is dispersed throughout the site.

B. Ryan shared that there has been some success in discussions with Niagara Mohawk about removing the pole that is in the center of the parking lot.

Continued Board discussion on application:

Member Appleby commented that the proposed lighting appears to give good light coverage. B. Ryan said it is 100 percent better than it is now. It will be nice, even coverage. Member Appleby said only 2 gates are shown and questioned the third. B. Ryan said that must be an error in the plan. There will be 3 gates. Chair Winner asked if they are of equal size. B. Ryan said it is a 32-foot span. They will be within 10 inches of each other.

Chair Winner noted that curb stops are shown on the plan. He said the sidewalk is not as high as they thought. Member Brugger said the last repaving probably raised the parking lot. B. Ryan said it raised it 2 inches. Chair Winner noted that the 5' wide pedestrian/cart walkway is shown on the plan. This should solve the problem of maneuvering to rear parking aisles since the parking is in the opposite direction. Chair Winner asked if they plan to leave the opening in the asphalt curbing between their lot and the lot at Pizza Hut. B. Ryan said what ever the Board wishes. He said it would probably be safer to block it since he would not want to encourage vehicles pulling in front of delivery trucks. It would be a hazard. Board agreed.

Member Brugger said he is still concerned with vehicles hanging over the sidewalk in the front of the store. He suggested placing the curb stops back 3 feet so the front end of the vehicles do not overhang the sidewalk. He said they have had this experience at Lakeside Memorial Hospital where he works. S. Zarnstorff said that is a good thought and it doesn't shorten the spaces. Member Switzer said this would carry the line evenly along the front.

Member Brugger said he likes the lighting plan and cart walkways. Chair Winner asked what the four

parallel boxes are. B. Ryan said those are 4 parallel parking spaces that employees will be encouraged to use. This brings the total to 112 parking spaces.

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Member Brugger was not at the meeting with the initial presentation. He asked if the expansion would be for storage or floor space purposes. B. Ryan said for floor space. He reviewed the interior layout plan.

Member Switzer asked about the green area in front on Main Street. B. Ryan and B. Spahn showed photos of the area that show the planter boxes and Village trees. Member Appleby said there are 3 brick planter boxes. Member Brugger asked if he had considered removing the entrance from Main Street nearest Pizza Hut. B. Ryan said no. That would not be good for delivery trucks.

⇒ Member Brugger moved, Member Appleby seconded, unanimously carried to grant site plan approval for the expansion as proposed with the following changes to the plans: eliminate the curb cut between parking lots to Pizza Hut, add the third gate to the front, place parking curb stops so as to line up all the way across the front of the building.

NEW BUSINESS:

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| 1. Application of: | Name: | Kim Murray – Murray Martial Arts Centers |
| | Address: | 71 Main Street |
| | Purpose: | change of use for martial arts studio |

Applicant Presentation:

Kim Murray re-introduced himself. He reminded the Board that he applied a few months ago to open his martial arts studio in the building behind Domino's Pizza on Main Street. He said the Planning Board approved it, but he and the property owner did not see it as the right space. He continued looking and is interested in a property a couple of people encouraged him to consider. This is the front portion of the third floor of the Masonic Building at 71 Main Street. Unique Gift Boutique is at ground level. A dance studio is on the second floor. He said the building's new owners are Robert and Sue Garlock. He introduced John Deats who represents them and is very familiar with the building.

K. Murray said he and his family own and operate 5 locations throughout Monroe County. He is also an adjunct professor at R.I.T. teaching martial arts for 24 years. He is an 8th degree blackbelt. They are changing their name from Karate to Murray's Martial Arts Centers because they offer so many different types. They are all about success.

Continued Board discussion on application:

J. Deats said it only needs some work regarding adequate lighting and smoke detection and interior painting. They will share the second floor restrooms with the dance studio. J. Deats said they would be as friendly to the building as possible. Besides painting and lighting, they will install a mirrored wall and bring in portable mats. K. Murray said not too many businesses could be successful on a third floor without an elevator. J. Deats said had there been an elevator, the Masons might have kept the building. Member Appleby asked if there is an ADA issue with access to the third floor. S. Zarnstorff said not at this point with the amount of space to be used and number of students anticipated. If it greatly increases, it may need to be addressed.

K. Murray said there is room to expand on the third floor if needed. He anticipates under 50 students ages 4 through adult. K. Murray said his hours of operation are Monday through Thursday until 9pm and Saturdays until 5pm. They are closed Fridays and Sundays. On rare occasion there may be a special event on a Sunday.

Member Switzer asked what the last use was. S. Zarnstorff said it was an assembly room with a kitchen for the Masons. It did not fall under "public" assembly.

⇒ Member Brugger moved, Member Switzer seconded, unanimously carried to approve the change of use to accommodate a martial arts studio – Murray Martial Arts Center.

OLD BUSINESS continued:

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| 2. Application of: | Name: | Marv Duryea of BEI
Mike Lockwood of Lockwood Precision Mfg. Inc. |
| | Address: | 85 Clinton Street |
| | Purpose: | possible new occupant |

Applicant Presentation:

M. Duryea said M. Lockwood was unable to attend tonight. Monday is his big shipping day and he got tied up. M. Duryea distributed a plan showing the interior layout with office, restroom, and the type and number of machines to be used.

He said M. Lockwood is currently on a month-to-month lease in his existing location. He is anxious to move his business here as soon as possible. They hoped for August, then September. Now it is looking like it might be October. He said they want to work with the Village to assure that this business in this location will not be detrimental to anyone. He would like to buy the business. M. Duryea said he would hold the mortgage. Then they would work to find a suitable tenant for the remaining 10,000

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square feet. They would return to the Planning Board for proper approvals. At this time it is Mike Lockwood and his wife full time and 2 part time employees – day shift only. As business improves he would anticipate 8 employees and possibly adding a shift.

Proposed exterior improvements including painting of the entire building. He provided color samples of tans and creams. They would also re-seal and stripe the entire parking lot and be handicapped parking compliant. He will provide a rendering in the near future.

M. Duryea said he was told that a neighbor has a concern. He said he has contacted many of the neighbors, but has not been able to get a hold of everyone. He said he has always tried to be a good neighbor and is unaware of any past complaints. M. Duryea said all the years it was Brockport Enterprises, there were far more flammable chemicals and probably much more noise than the proposed use.

Continued Board discussion on application:

Member Appleby questioned the exterior lighting. M. Duryea pointed them out of the plan. He said they

would be made more attractive and more efficient. The existing are just old farm lights. He would replace them with something less obtrusive. He said he has never been broken into. He said that is partly due to the lighting and the super neighbors. Member Appleby asked if the one light bothers the closest neighbor. M. Duryea said he has never said anything and bets it helps light up his vehicles to keep them safe.

Member Switzer questioned a small asphalt area. M. Duryea said parking was expanded as the building expanded west. Member Switzer questioned fire exits. M. Duryea pointed them out on the plan. Member Switzer questioned noise. Chair Winner encouraged Board members and concerned neighbors to visit the existing business on Pixley Road in Gates. From the outside you could not hear any noise. From inside the major overhead door, the noise level was acceptable and you could carry on

a conversation. Member Appleby asked the makeup of the Pixley Road building and if there is any noise abatement. S. Winner said it is a 2-story space with an uninsulated metal roof with no noise abatement. M. Duryea said he would be happy to take interested parties on a tour.

Member Brugger asked about oil reclamation. S. Zarnstorff said it is done with troth and grating. M. Lockwood said previously that he uses about 55 gallons of cutting oil per month. Chair Winner showed a picture. Member Switzer said it is self-contained and recycled. Member Brugger asked if there is a need to cut into the floor. M. Duryea said no. M. Duryea said the proposed restroom location has a recessed drain from an old house that used to be there.

Deputy Village Attorney Aloï asked M. Duryea when he purchased the building. M. Duryea said sometime in the 1970's, maybe even the mid 1960's. Chair Winner said Village research shows 2 applications to the Planning Board for expansions in January and May 1978 and an application to the Zoning Board of Appeals for an area variance on rear setback. M. Duryea recalled the original truck port in 1966. Chair Winner asked for a brief history of the property's use. M. Duryea said mainly packaging and distribution of other people's products. They did a good deal of work for Kodak with one and two color printing and high-speed copiers, printing of manuals, break down, packaging, repackaging and shrink wrapping of food items, pet items, cameras, film, batching of 10-12 different photo chemicals, etc. They had 10-80 employees at a time depending on the project. They had 6 to 7 tractor trailer loads per day and extended hours. M. Duryea said he still maintains an office in the building and has storage of approximately 400-500 pallets.

Chair Winner said Deputy Village Attorney Aloï has just returned from an extended vacation. He would like to give him some time to study and advise the Planning Board on the use. F. Aloï said he needs at least 10 days. Chair Winner said the Board does not want to do anything that might negatively impact the community, nor does it want to be obstructionists in welcoming new business. Appropriateness of the use in the zoning must be wrestled with. M. Duryea said they could attend the next meeting.

⇒ Member Brugger moved, Member Appleby seconded, unanimously carried to table the application until the next meeting in order to give Deputy Village Attorney Aloï time to research the appropriateness of the proposed use in this zoning.

Thomas Ferris of 82 Erie Street said he objects to the proposed use in the zoning and asked that his letter of August 2nd be entered into the record. Chair Winner confirmed that the letter would be entered

in its entirety. Here is content of said letter from Thomas Ferrazzi Ferris to Village Attorney Keith O'Toole.

Re: Planning Board application of Marv Duryea (BEI) and Mike Lockwood (Lockwood Precision) for 85 Clinton Street

Dear Mr. O'Toole:

It was a pleasure speaking with you last week regarding the pending application referenced above.
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As you will recall, I was concerned about the matter as my residential property (82 Erie Street) abuts the south boundary of the property at 85 Clinton Street (hereinafter referred to as "the property"). Indeed, my house is no more than eighty (80) feet from the back of the building on the property.

The initial source of my concern is the fact that the property is currently zoned "Business Use" (see Official Zoning Map 07/14/03 attached herewith) and it appears as though the proposed use would be "Limited Industrial" or "Industrial." The fact that this matter has not been presented to the Zoning Board of Appeals (hereinafter referred to as ZBA) is disturbing and, in the opinion of the undersigned, illegal.

The sole purpose of the zoning law is to protect residential property owners from the encroachment and nuisance associated with commercial and industrial property use. In this regard then, the Municipality has an affirmative obligation to formally notify residential property owners when a change in use of adjacent property is being considered, and refer the matter to the ZBA for further consideration and development of the record. The reason is obvious. It allows those residential property owners to be part of the process and more importantly to be heard in the process. Thus far, the Village's decision to exclude my neighbors and me from this process contradicts their obligation to protect us.

Another concern I have relates to the Village Master Plan, specifically as it relates to "Light Industrial" and "Industrial" zoning. As the attached zoning map shows, there are significant areas reserved the property use which conforms to the desired use of Mr. Lockwood. I do not believe that the Village Master Plan recommends rezoning the property to "Limited Industrial" or "Industrial." Indeed, the Master Plan calls for development of the tract of land zoned "Light Industrial" off of the South Avenue extension. As of this date, I do not believe any development in this area has been accomplished, and thus, consideration for rezoning the property here is inappropriate until such time as the Master Plan has been complied with.

I have spoken with Scott Winner, Chairperson of the Village of Brockport Planning Board, and have been assured that the proposed use will not impact the enjoyment or use of my residential property. For the sake of argument, should this be the case, I'm not assuaged as the proposed owner could sell the property to a less friendly industrial neighbor at any time in the future.

I wish to emphasize here again my concern regarding the Village's desire to circumvent the open zoning process as it pertains to this property. It is certainly nice to have businesses interested in Brockport, and to that extent the Village should be diligent in developing the Industrial Zones identified by the Village Master Plan. However, when it comes to determining the rezoning of property from "Business Use" to "Industrial Use" which abut residentially zoned areas outside of the purview of the public forum, I feel that the Village has failed to execute its responsibility to protect the sanctity, value and enjoyment that affected residential property owners have in their respective properties.

Accordingly, please accept this as my objection to this application for the reasons stated above. Furthermore, I request that this matter be referred to the ZBA as it should have been done in the first instance. Lastly, I wish to be placed on notice as to all future hearings concerning this matter.

NEXT REGULAR MEETING: Monday, September 13, 2004 at 7pm

ADJOURNMENT:

➔ Member Brugger moved, Member Switzer seconded, unanimously carried that the meeting be adjourned at 8:10pm.

Leslie Ann Morelli, Village Clerk