

# Village of Pawling Planning Board Minutes

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Date: November 15<sup>th</sup>, 2022

Present: Robert Pfister Jr., Chairman  
Mike Mersand, Member  
Lou Musella, Member  
Peter Pennelle, Member

Absent: Adam Muroski, Member

Also Present: Dave Daniels (Village Council)  
Kendra Self (Applicant Duane Lake Academy)  
Clayton Livingston (527 Route 22 Property Manager/DLA-Applicant Representative)  
Ben Gailey (146 East Main Street Attorney)  
Curt Johnson (Architect 146 East Main Street)

**APPROVED BY**  
**VILLAGE OF PAWLING**  
**PLANNING BOARD**

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On, **Tuesday, November 15<sup>th</sup>, 2022 at 7:00 PM**, the Planning Board met at the Village Hall. The Meeting was called to order by Robert Pfister, Chairman and began with roll call as indicated above and The Pledge of Allegiance.

## **Approval of Minutes**

*Member Mersand made a motion to approve minutes of October 13<sup>th</sup>, 2022 Planning Board meeting. The motion was seconded by Member Pennelle and passed with all present members in favor.*

## **Sketch Conference**

**Kendra Self (Duane Lake Academy/Applicant)**  
**527 Route 22/Grid#: 7056-05-206939 (B2 Zoning District)**

Planner LoBrutto explained that Dutchess County response for Lead Agency states “it’s a matter of local concern.” She recommended that the Planning Board make a SEQR determination as a Type II Action because it’s the res-use of a commercial structure where the commercial use is a permitted use under the applicable zoning law including permitted by special use and the action does not meet or exceeds any of the thresholds in section 617.4. Ms. LoBrutto said that the applicant has provided substantial data to support the special use permit and the associated site plan approval stating that the application is ready for the Planning Board to make a decision.

The Chair referred to the Board for questions or comments. Member Musella said I know that there was a discussion about parking but I’ve driven through the parking lot a number of times, that’s not an issue at all. There’s plenty of parking. The Board agreed with Member Musella’s finding. There were no more questions or comments.

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*Chairman Pfister made a motion to declare the action a Type II action under SEQR. The motion was seconded by Member Pennelle and passed with all present members in favor.*

Chairman Pfister referred to the Board for any questions or comments regarding the Special Use Permit. Member Musella said it's a school with eight students that will be in session a couple times a week. I don't think there's going to be an impact on the community at all. I'm in favor of the project.

*Member Musella made a motion to approve the Special Use Permit. The motion was seconded by Member Mersand and the motion passed with all present members in favor.*

There were no questions or comments regarding the Site Plan.

*Member Pennelle made a motion to approve the Site Plan. The motion was seconded by Member Musella and the motion passed with all present members in favor.*

**Main Corner Properties, LLC  
Diana Tomassetti (Owner/Applicant)  
146 East Main Street/Grid #: 7056-09-244711**

*Chairman Pfister made a motion to go into executive session. The motion was seconded by Member Mersand and the motion passed with all present members in favor.*

*Member Mersand motioned to close executive session. The motion was seconded by Member Musella and the motion passed with all present members in favor. There were no votes or decisions.*

Curt Johnson presented the aesthetical changes to the Board which includes cladding the brick chimney in real stone veneer that would complement the roof color. He said we had trouble getting actual stone samples from Mumford Brothers, and presented the Board with photographs from their show room. He said the stone would dictate the other things. On the south end of the building there were trim details in the approved design. We would actually be going over the brick that's showing now with the trim material to get more in line with the look of the front entrance of what was approved. We'd take the stone from the chimney and put it on the stone pillars to tie them together the signage. The brick half wall that's on the second floor is structurally tied into a slab that was poured there so there's rebar so the idea here is to actually cover the existing brick with trim detail and do the same thing on the lower level to cover the brick on those half walls and bring that more in line with the trim detail, adding columns per the previously approved plan. We're proposing to keep the roof color as it is right now and then try to tie in the other pieces to that. Shutters will be installed per the original plans. The cedar pergola will be removed. This existing travertine stone tile wall will be removed and siding and shutters will be added as what was previously approved. The stone that's on the second floor would all be removed and will be replaced with siding. On the lower level, we would leave the travertine underneath that outdoor dining area. On the north end of the building we'll have a railing system that will be similar to the railing system on the front entry so hiding the HVAC unit. The last item was

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Working on possibly painting the building getting rid of that taupe color maybe going more with a white/off-white.

Member Musella asked how thick the stone is. Mr. Johnson replied it's about three inches or so thick adding that its real stone, not a manufactured product.

Member Mersand asked Mr. Johnson what happened to the idea of painting the roof tile. He referred back to a previous meeting when Mr. Johnson provided the Board with a sample. Mr. Johnson stated that the sample tile that was provided to the Board was a Benjamin more painted tile to show the Board an example, it wasn't a proper product. He explained that they located a product that could be applied to the roof, it's an (inaudible) product that could work and it's black. He further explained that there is an issue with the way the paint is applied underneath the tiles because of shadow line and getting it underneath. The concern is if they would be able to get proper coating on that. Chairman Pfister said I can imagine because of the type of product it is because of heating, it's going to shrink and swell as the temperature changes. Mr. Johnson replied yes, and you can't really choose colors, its pure black and with the concerns of expansion and contraction, the owner decided not to go that route.

Member Musella asked what type of product is it. Mr. Johnson replied it's a rubberized paint coating product and has some thickness to it. I think the application of it would be really tricky to do, again, with expansion and contraction of that material, there's a possibility of the terracotta coming through as it expands and contracts.

Chairman Pfister asked Mr. Johnson to clarify the yard requirements regarding the overhangs shown on the site plan commenting that the Village Code, Chapter 98-18 states that no balcony should project into a required yard. Mr. Johnson replied they do not, variances were granted for that. The building didn't change with the overhangs. The only one that got slightly larger was the one that went to the front but we're completely within the building envelope on that. We were granted variances along the front yard setback so we're complying with the others and those were on the original approved site plan.

Chairman Pfister said we're still having a tough time seeing how the building fits in with community character. The decision making process throughout the entire process was based on that original approved site plan and the cases you made for how this building fit into the community character. This building is in a residential zone. The approved building went from looking like a very large residential building to a very large commercial building. Mr. Johnson said it seems like the big issue is the roof, everything else pretty much is going back to what was approved. As far as the brick, we're covering a lot of the brick and if we can get away from the current brick color and pick a warm grey that's in the stone, I think it will tie together and feel less brick like. Chairman Pfister replied that the commercial look of the building is the primary concern and it's a very large building for that lot. Member Musella commented that the Cane House was referenced as well as the house on South Street and the original site plan did look a little more residential compared to the way it looks right now. Mr. Johnson said, personally, I think the paint color and the shutters on the windows will help break down the patterns that are in the brick. It will all be in uniform color. Mr. Musella said if you're putting

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Stone on the chimney, why can't you put stone on the rest of the building. Mr. Johnson replied because of the oversized footing of the chimney, it wouldn't work because the stone would have nothing to hang on.

After a lengthy discussion regarding the aesthetics of the building; how it doesn't conform to the community; how it changed so much from the original site plan, Chairman Pfister recommended that the Board rescind the negative declaration, stating the changes that were made were not considered for SEQR. There's enough change with this project from the originally approved site plan to now; the cumulative nature of all of the changes is enough for us to have to go back and look at SEQR again. He explained that SEQR is an information gathering process and in order for them to make a proper determinations on a project, all of this new information needs to be considered that wasn't considered during the initial SEQR process.

Mr. Gailey said you all got my letter saying that it's unlawful to rescind the negative declaration and it's not necessary to do so. Mr. Daniels acknowledged receipt of the letter. Mr. Gailey said it's unlawful, it doesn't accomplish anything and you're already in a SEQR process on this current application. If you want to look at the changes from the last time, you just do it in the context of this application and the SEQR review of this application. This has nothing to do with the Negative Declaration on the prior application. That application is over it's already been approved. We have a new application now and a new SEQR process. I'm not saying you can't engage in a SEQR review. I'm just saying you can't rescind a negative declaration on an old application. He further stated we can't really respond to the Board's concerns unless we have the list of what it is that the Board's concerns are and these cumulative changes you're talking about. We can't respond to that unless we really know what they are and I think we're entitled to get that from the Board.

Mr. Daniels said for the record, I've given the Board opinion that we disagree with your interpretation. When you modify a site plan application, the Board has every right to look at the cumulative impact of the entire project. It's within the Board's authority to pass a motion to rescind the Negative Declaration in which case there will be a 30 day circulation to involved agencies. The applicant will have an opportunity to respond and then after that time period has expired you can then reconsider. A lengthy discussion ensued regarding the legality of rescinding the Negative Declaration.

*Chairman Pfister made a motion to approve the resolution to rescind the Negative Declaration for this application which was read into record at the October 11, 2022 Planning Board meeting. Member Pennelle second the motion.*

The Chair referred to the Board for comment.

Village Planner Caren LoBrutto said SEQR helps us to better understand any potential adverse impacts. In this case consistency with community as the proposed actions land use components may be different from or in sharp contrast to current surrounding land use patterns; the proposed action is inconsistent with local land use plans or zoning regulations; the proposed action is inconsistent with the predominant architectural scale and character. Those kind of fit with the Board's claims over the past several months. I just kind of wanted to help frame this conversation a little with regards to the reasons why you can rescind a Negative Declaration.

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Member Musella stated we've been discussing this for the past nine months and we all know how this project deviated from the original site plan approval to where we are right now. It does not fit into the character of the neighborhood whatsoever.

*The motion passed by roll call vote of 4 to 1 (absent) as follows:*

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
<b>Robert Pfister, Chairman</b>	<u>X</u>	<u></u>	<u></u>
<b>Lou Musella, Member</b>	<u>X</u>	<u></u>	<u></u>
<b>Adam Muroski, Member</b>	<u></u>	<u></u>	<u>X</u>
<b>Peter Pennelle, Member</b>	<u>X</u>	<u></u>	<u></u>
<b>Michael Mersand, Member</b>	<u>X</u>	<u></u>	<u></u>
<b>TOTAL</b>	<u>4</u>	<u></u>	<u>1</u>

Chairman Pfister commented that the notice of rescission of the Negative Declaration will be circulated and the applicant will have 30 days to respond.

## Old Business

The Board approved the 2023 Planning Board meeting schedule.

## Escrow

No escrow up for discussion.

## Adjournment

*Member Mersand made a motion to adjourn until the next Planning Board meeting scheduled for **Tuesday, December 13, 2022**. Member Musella seconded the Motion. The motion passed with all present members in favor.*

Submitted by:

Vivian Nikolatos  
Planning Board Secretary