

VILLAGE OF PAWLING PLANNING BOARD MINUTES

DRAFT

Date:	June 16, 2021
Present:	Steve Goldberg, Planning Board Chairman Adam Muroski, Member Robert Pfister, Member Lou Musella, Member Peter Pennelle, Member
Also Present:	Lauri Taylor, Mayor Caren LoBrutto, Village Planner Jonathan Bardavid, Attorney for Planning Board Joe Berger, Berger Engineering Curt Johnson, Architect to Applicant

On, **Tuesday, June 16th, 2021 at 7:00 PM**, the Planning Board met at the Village Hall. The Meeting was called to order by Steve Goldberg, Chairman and began with roll call as indicated above and The Pledge of Allegiance.

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The Chair explained that the goal of tonight's meeting is to close SEQR, issue the Negative Declaration and refer this project to the ZBA then referred to the Board for any questions.

Member Rob Pfister asked Curt Johnson, representing the Applicant, for clarification on Building Placement for Type 1 Shopfront/Mixed Use as per the Urban Regulations.

Mr. Johnson explained that the proposed building placement was discussed extensively in front of the Planning Board 2007. At that time it was determined that the building should not be placed on the property line because that particular area is a transition between commercial and residential neighborhoods. He noted that if the building were to be placed right on the property line, there would not be viable access to the front of the building due to the lack of on-street parking in that area. Mr. Johnson further explained the project went in front of the Planning Board again in 2018 to change the rotation of the building 90 degrees which the Board approved.

Member Musella voiced the same concern as Member Pfister stating that the Urban Regulations (§98-13b) is not clear.

Mr. Johnson reiterated that both in 2007 and 2018 this was both deliberated and approved and a building permit was issued in 2019 as it was presented to the Planning Board in 2018.

Further discussion ensued on whether or not Urban Regulations "required" the building to be put along the property lines as well as discussion on Building Setback (Schedule B and Schedule C).

Member Pfister made a motion to refer to the Zoning Board for clarification on the placement of the proposed new building. Member Lou Musella seconded the motion.

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Chairman Goldberg referred to the Board emphasizing his view that building placement for this structure has been chosen with a lot of thought a care and precedent has been that this was deliberated and approved by two previous Planning Boards.

With no further comment, the Board voted as follows:

	<u>Aye</u>	<u>Nay</u>
Member Pfister	X	
Member Pennelle	X	
Member Musella	X	
Adam Mursoki	X	
Steve Goldberg		X
Total	<u>4</u>	<u>1</u>

The Chair cautioned the Board that there is a question about whether or not this is in SEQR but will leave that to the ZBA. He further cautioned that should the ZBA decide not to grant a variance, that the buildings will have to be moved to the property lines in both cases (one building up against Sunset and the third proposed new building will be on the sidewalk along East Main Street) which the Board has received strong feedback against.

Mr. Johnson noted that the ZBA granted Variances in 2007 and reiterated those in 2009 based on the third building on the lot as well as the Site Plan approvals by previous Planning Boards. Mr. Johnson said that the approval of this Site Plan do not expire. He further explained that project is before the Planning Board now for a Special Permit to allow the residential use on the first floor and the ZBA for allowing the third building. The placement was already approved and feels should not be in question.

Member Pfister made a motion to refer to the Zoning Board to clarify where height is measured from and too as it relates to this project. Discussion ensued.

With no second, Chairman Goldberg made a motion to withdraw part two of the previous referral to the ZBA which asks for clarification of where this building should be measured either from the street or from the front of the building. Member Musella seconded the motion. The Board voted as follows:

	<u>Aye</u>	<u>Nay</u>
Member Pfister		X
Member Pennelle	X	
Member Musella	X	
Adam Mursoki	X	
Steve Goldberg	X	
Total	<u>4</u>	<u>1</u>

Chairman Goldberg explained that originally we were going to issue SEQR. We now have an issue that is outside of SEQR which is we are going to refer the Building Placement issue. What I am going to do is something a little unusual because what I have a concern about is just referring "Building Placement issues" is going to be seen as broadly asking for an interpretation of the Code without being specific enough about the building and because building placement issues are a multi-pronged issue. I am going to say what we need to do in order to be correct, is first to withdraw that motion with the prejudice that we will then make other motions to be more specific about "building placement". So the motion on the table is can we withdraw the previous motion for the purpose

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of being more definitive about any subsequent motion and breaking up building placement issues into different questions so that we can make a proper referral or a more detailed referral to the ZBA.

To clarify, Mr. Bardavid said my understanding is that your intention is not to have the Planning Board reverse itself, your intention is for the Planning Board to clarify what was asked and I think, Rob, to be fair, it would be helpful if you clarify what exactly you wanted the ZBA to answer with regards to "Building Placement" just so it's clear.

Further discussion ensued with regards to changing wording of the previous motion for the purpose of avoiding an overly broad resolution and referral to the ZBA so that we are not viewed as being arbitrary or capricious.

Chairman Goldberg motioned to rescind the previous motion without prejudice which means we're saying it was wrong or anything like that and make it more specific for the purposes of clarifying our referral to the ZBA.

Member Musella seconded the motion. All were in favor.

Chairman Goldberg stated that the Motion is rescinded with no prejudice then asked Member Pfister to restate his motion.

Member Pfister made a motion to refer to the Zoning Board to clarify if a variance is needed for 0 feet required, 84 foot depth and 90% lot frontage as applied to this project.

Mr. Johnson asked the board if Site Plan does not expire, why are we reviewing this again for Building Placement? The Building is 90 feet deep basically as it is set.

Chairman Goldberg explained that depth is defined as from setback in the front of the building to the rear wall of the building. So the depth is whatever the setback is to the rear wall of the building. That's how depth is defined. Do we have any disagreement or questions about that?

Member Pfister asked, if it's 90 feet off the street to the back wall of the building, is a variance needed?

The Chair asked Mr. Johnson how far it is from the back wall of the building to the front of the building.

Mr. Johnson said from the parking lot in the front entrance of the building to the back of the building is 65 feet.

Chairman Goldberg explained, "When this was first approved, the measurement of the building was 60ft. The depth was the 60 feet plus the setback from the property line. Now the building no longer has a depth that is setback from the property line except the depth is measured from the back wall of the building all the way to the edge of the lot on East Main Street, next to LaMorte property. That's the measurement. So the question becomes is that a setback at all or is that a building placement issue at all and I am trying to determine what it is that we are trying to clarify."

Mr. Bardavid said, "Looking at the plans, I understand Rob's question as to what that means, but as I read it says 84 feet max depth so that means it can't exceed 84 feet. Do we have any belief under any measurement this exceeds 84 feet because if it doesn't that it's a hypothetical question that we'll deal with on the next building but it doesn't relate to this project?"

Member Pfister asked Mr. Johnson how far the back wall is off the street.

Mr. Johnson replied the back wall of the front building is off the street 90 plus 25 feet.

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The Chair said, “Curt you’re confusing people. That is not the back wall of the building, it is the sidewall of the building.”

Mr. Johnson replied, “I don’t know how to measure this thing. We’re talking in circles.”

Chairman Goldberg said let’s not over complicate it. The front of the building is where the front door is and the back of the building. You just measured the width of the building.

Mr. Johnson said, “The back of the building is 65 feet.

The Chair further explained, “the depth of a building is defined everywhere as from the front of the building to the back wall or from whatever the set back is to the back wall of the building. The back wall of the building doesn’t change. The back wall of the building is clearly opposite the front wall of the building and front wall of the building is clearly where the front door is. We know this even if we have doubt about it because we rotated the building so that the front would no longer face the East Main Street. We did that as part of Local Law 2018 compliance.”

Mr. Johnson said, “Just for clarification, the front of the building was on the west side of the building from the parking lot, the back of the building was along East Main Street so it was completely rotated.”

Chairman Goldberg said, “So what we’ve got is a question of the depth has 84 feet maximum. So the question is since the building, not the width of the building, but the depth of the building is 60 feet. We have 20 feet to play with. Now you could argue that the setback has to be somewhere, but I don’t know where, because the edge of the setback that Rob asked is how far the building should be from the front. And how far the building should be from the front in this case is talking about the front being East Main Street. But that is not the front of the building and that is not how you measure depth. Here, the front of the building is not facing anything that demands a setback. This is why I wanted to separate these things.” Discussion on setbacks and how it fits into the Urban Regulations ensued.

Member Pfister made a motion to clarify if a variance is needed for a setback from the street. Does it need a variance for 90% minimum frontage and does it need a variance for 84 foot depth from the street. Member Musella seconded the motion.

	<u>AYE</u>	<u>NAY</u>
Adam Muroski		X
Pete Pennelle		X
Lou Musella	X	
Robert Pfister	X	
Steve Goldberg		X
Total	2	3

The resolution did not pass by a vote of 3 to 2.

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Chairman Steve Goldberg made a motion to accept the Negative Declaration. Member Muroski seconded the motion.

	<u>AYE</u>	<u>NAY</u>
Robert Pfister		X
Pete Pennelle	X	
Lou Musella	X	
Robert Pfister	X	
Steve Goldberg	X	
<u>Total</u>	<u>4</u>	<u>1</u>

The resolution passed by a vote of 4 to 1.

Adjournment

Chairman Goldberg made a Motion to adjourn until the next Planning Board Meeting on Tuesday, July 13, 2021. Member Lou Musella seconded the Motion. All were in favor.

Submitted by:

Vivian Nikolatos, Secretary