

# VILLAGE OF PAWLING

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Date: September 14, 2021

Present: Steve Goldberg, Planning Board Chairman  
Adam Muroski, Member  
Peter Pennelle, Member  
Robert Pfister, Member  
Lou Musella, Member

Also Present: Lauri Taylor, Mayor  
Jonathan Bardavid, Attorney for Planning Board  
Caren LoBrutto, Village Planner  
Joe Zarecki, Architect  
John Kline, Applicant  
Johanna Kline, Applicant  
Diane Tomassetti, Applicant  
Michael Barnett, Applicant

On, *Tuesday, September 14, 2021* at 7:00 PM, the Planning Board met at the Village Hall. The Meeting was called to order by Vivian Nikolatos, Secretary, and began with roll call as indicated above and The Pledge of Allegiance.

## Approval of July 13, 2021 Planning Board Minutes

*Board Member Lou Musella made a Motion to table the Minutes until the Board is provided a copy of the Secretary's original draft of the Minutes. Member Robert Pfister seconded the Motion. After a discussion regarding Open Meeting Law, the Board voted as follows:*

	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>
<i>Steve Goldberg, Chairman</i>		x	
<i>Adam Muroski</i>	x		
<i>Peter Pennelle</i>	x		
<i>Robert Pfister</i>	x		
<i>Lou Musella</i>	x		

Chairman Goldberg directed that the Minutes be posted on the website in order to comply with the Open Meeting Law and marked as "DRAFT."

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## **Point of Order Made by Member Lou Musella**

*Member Lou Musella made a motion as follows:*

*It is my understanding that the Chair has inserted himself personally into the O'Connor Application, including preparing the application, delivering the application fee and having several ex-parte conversations with the Applicant's representative that included the merits of the application.*

*It is also my understanding that this is not an isolated incident but has occurred on other recent applications.*

*I make a motion pending Board of Trustees approval to hire the Van De Water law firm to investigate these matters to determine whether the Chair committed any ethical or illegal violations or misconduct.*

*Member Rob Pfister Seconded the Motion. All were in favor.*

## **146 East Main Street**

### **Diane Tomassetti - Present**

Ms. Tomassetti explained that due to the shortage of building supplies, they are unable to obtain sufficient quantities of the full-bed natural stone needed to adhere with the approved site plan.

Ms. Tomassetti provided the Board with a letter verifying that the natural stone is on backorder.

Ms. Tomassetti also provided the Board with a sample of the substituted brown brick as well as a rendering showing the brick on the façade of the building.

After a discussion on the difficulty in finding the materials and the price increases, Ms.

Tomassetti agreed to look into the two other suppliers suggested by Board Member's Robert Pfister and Adam Muroski (O & G in Danbury and Mumford.)

*Chairman Goldberg made a Motion to approve this change pending the receipt by the Clerk of an additional two confirmations from suppliers that sufficient quantity of the materials would be needed to be backordered. Motion seconded by Member Adam Muroski. All were in favor.*

## **Pawling Bed & Breakfast – 105 West Main Street**

### **John & Johanna Kline - Present**

Chairman Goldberg stated the applicant has responded to a variety of initial comments regarding issues on soil disturbance, etc. (see letter dated August 27, 2021 included with the amended site plan submitted to the Planning Board on August 27<sup>th</sup>.) They have also defined the use of the proposed structure which is to primarily become an Accessory Dwelling for the owners.

Mr. Joe Zarecki of Zarecki & Associates, representing the applicants said he had time to review Village Planner Caren LoBrutto's comments and they are able to comply with everything referenced in her analysis.

After a discussion of Ms. LoBrutto's analysis, Chairman Goldberg referred to the Board for comments.

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Member Pfister asserted that it still would not be possible to increase the usage of water by adding two rooms until we get final approval for the water.

Mr. Zarecki replied that it will be a long time before we get through this process and actually build the structure and put it into use.

Ms. LoBrutto asserted that the photo metrics and lighting plan waiver should be discussed and the following Motions were made and voted on.

*Chairman Goldberg made a Motion to waive the need for a photo metrics plan as part of the site plan approval. The Motioned was seconded by Member Robert Pfister. All were in favor.*

*Chairman Goldberg made a Motion that the Planning Board declare intent to be Lead Agency and follow the proper protocols over the next 30 days. Member Pfister seconded the Motion. All were in favor.*

*Mr. Goldberg made a Motion to set the date of the Public Hearing to be Tuesday, October 12<sup>th</sup> at the next regularly scheduled Planning Board meeting. Member Muroski seconded the Motion. All were in favor.*

## Old Business

### Escrow Releases

Chairman Goldberg indicated there have been a large amount of escrows that were initiated and have not had any activity in quite some time, yet have never been released back to the applicants. He listed the as follows:

Project Name	Opened	Last Activity	Balance
Trinity Pawling	May-16	Sep-17	\$675.00
Seven Memorial Drive	Aug-17	Aug-17	\$1,666.00
Meyers Brothers	Aug-19	Oct-19	\$221.00
Kings Apartments	May-16	May-16	\$2,543.00
16 Henry Street	Sep-21	Dec-20	\$266.00
Sun Flour Bakery	Sep-18	No Activity	\$500.00
132 Charles Colman	Mar-06	Apr-08	\$2,348.00
<b>Total</b>			<b>\$8,219.00</b>

*Member Muroski made a Motion to release escrows. Chairman Goldberg seconded the Motion. All were in favor.*

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## **Pawling Commons Escrow Increase**

*Chairman Goldberg discussed the continued work needed to be done on the application including work related to the additional variance matters referred to the ZBA. He then made a Motioned to increase Pawling Common's escrow by \$12,000. Member Musella seconded the Motion. All were in favor.*

## **O'Connor's Public House – 6 Broad Street Process Discussion**

*Village Council, Jonathan Bardavid recused himself and Daniels & Porco due to a Conflict of Interest.*

A question was made on the potential for the Chair's recusal based on his various alleged actions (delivering and assisting with the initial form.) The Chair declined to recuse himself indicating that his actions were in the course of normal business.

Chairman Goldberg explained that O'Connor's is part of the building that occupies parcels # 014053 and # 004055. The business now has an Expanded Use, created during Covid, comprised of a patio located on parcel #016066. He indicated that patio dining areas are permitted by Right according to Schedule A as with a recent application by the Tap House; however, this Accessory Use is not located on the same parcel or a vacant parcel but rather on an adjacent lot with a different use. He further explained that according to section 98-5 of the Code, Accessory Uses, which is what a patio is, must be customarily, incidental and subordinate to the primary use and located on the same lot. Furthermore, he stated, it is clear that dining, etc. are not incidental or subordinate to an auto dealer/mechanic.

The Chair indicated that for this issue the Planning Board would need the council of an attorney for the purposes of contract review, determining if a Use Variance or Easement were needed, etc. He further indicated that the Planning Board must retain an outside attorney as well.

Chairman Goldberg Motioned to seek outside council from Nancy Tanner, Town of Pawling Attorney to assist the Planning Board in the proper way to proceed in regards to this application.

With no Second, Chairman Goldberg withdrew the Motion and referred to the Board for comments on what they would like to do with the O'Connor's application.

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*Member Pfister introduced a Motion to hire outside council, Van DeWater & Van DeWater to assist in the proper way to proceed in regards to this application. Member Musella Seconded the Motion. The Board voted as follows:*

	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>
<i>Steve Goldberg, Chairman</i>			X
<i>Adam Muroski</i>	X		
<i>Peter Pennelle</i>	X		
<i>Robert Pfister</i>	X		
<i>Lou Musella</i>	X		

## Urban Regulations Discussion

(See Attached)

## Adjournment:

*Member Pfister made a Motion to adjourn the meeting. Chairman Goldberg seconded the Motion. All were in favor.*

Submitted by:

Vivian Nikolatos, Secretary