

CITY OF OSWEGO

PLANNING BOARD

May 4, 2021

**MEMBERS PRESENT:** Cory Moshier, Jeffrey Hinderliter, James Scanlon, Brit Hallenbeck, Kim McPherson, and Chairman Freeman.

**MEMBERS ABSENT:** Daniel Breitweg.

Chairman Freeman called the meeting to order at 6:30 p.m., Tuesday May 4, 2021. Roll call was duly noted.

A motion to approve the minutes of the April 2021 meeting was made by Cory Moshier and seconded by Jeffrey Hinderliter; minutes unanimously approved.

Chairman Freeman made a motion that all actions taken tonight are excluded, exempt or Type II actions for the purpose of the State Environmental Quality Review Law unless otherwise stated. Motion seconded by Jeffrey Hinderliter, unanimous approval.

## NEW BUSINESS:

1. Site Plan Review & Approval – 265 East Seventh Street, Case 21-38; to allow for the installation of a new driveway, Section 280-35 thru 280-37.

**DISCUSSION:** Judith Weissflog was present for the discussion. Ms. Weissflog said she has three teenagers. She said at some point in her life she will probably have four cars. She said she has a one car garage that has never seen a car. She said the original driveway was built the width of the garage door which is 10 feet so every time you open your door you're stepping out onto the grass or snow. She said it is time for it to be replaced. She said she thought you could go over the top but they have to dig it up and take it all out. She said she filled out the paperwork which Jeff McGann has said she shouldn't have any problems. She said she wanted to bring to their attention tonight something that has been quite eye-opening to her. She said it was brought to her attention that she doesn't own the first 20 feet of her property. She said they are telling her that she has to feather her driveway because it can only go the width of the garage. Jeff McGann said if you have a two car garage you have the right to have egress to both garage doors. He said if you have a single bay garage you have the right to have egress to that garage. He said there was a law passed about three years ago that says you can't create parking in public space and that is the reason for the feathering. He said if you go full width out there you are creating parking in public space and it is not egress to a garage. He said the present application gives her full width of the garage out at the road and then it tapers in. Ms. Weissflog said she completely understands that. She said her original intention was to make a U where are you could pull in and pull out. She was told that she could do that. She said due to the cost of materials and labor she could not afford to do that. She said that would be approved but this little 50 foot jig, that would not even fit a vehicle and would never have any intention of parking on, she cannot pave to make it look more aesthetically pleasing. She said she drove up and down the street and found 36 driveways. She said of the 36 driveways there are 14 that don't have a garage. She said out of the 14 there are three that are wider than what she is going to call a double wide, three that the sidewalk area to the street is paved and people park there, and three that people just park on the lawn. She said the neighbor across from her has a 20 width driveway and no garage. She said the other two people across from her have no garage or driveways and they just park there. She said none of them are going to complain one bit. She said it is an ugly look to a driveway and all she wanted to do is make it a perfect rectangle. Jeff McGann said you can't base it on if someone put a driveway in 12 years ago under a different administration with more lax zoning. He said when they change the law if you are not going to follow it then there is no sense to do it. Brit Hallenbeck said they have to follow the law. Ms. Weissflog said she didn't know if there was a way around it. Jeffrey Hinderliter said he doesn't see an issue with it. He said the intent of the law is to not create public space parking. He said he looks at the neighborhood that she is in. He said the lot that is to the south of her is a large grass lot. He asked if she owns that. Ms. Weissflog said that his city space. Jeffrey Hinderliter said from his perspective he doesn't think this is an unreasonable request. He said this isn't a tight downtown area. He said he doesn't think the law is there for these types of homes. He said he thinks the law is there for tighter right of ways and homes that have porches that are right up onto public space and people want to rip all the sidewalk out and pave

their front yards to park all the cars. He said if you were in Britney Hills or Kingsford Woods and wanted to put in an extra wide driveway he doesn't think they would have a problem with that. He said he doesn't think that this is detrimental to this neighborhood. Jeff McGann said it is their decision to make but they have to have consistency. He said if someone comes in next week on West Third Street in a tighter neighborhood looking to do the same thing, are they going to grant them the same thing. He said his thinking is that the law fits for everyone the same way. He said if you approve this then they have to approve it for everyone that comes in. Jeffrey Hinderliter said they have the right as a Board to take discretion between West Third Street and here because of the context of the neighborhood. Mr. Caraccioli said they have some leeway to interpret but if it crosses into a decision that is contrary to what is written then it needs a variance and it would be subject to the ZBA. He said he's trying to hone in on the specific provision that they are talking about. Jeff McGann said the provision is the resolution that was passed three years ago saying no creating parking in public space. Jeffrey Hinderliter said it was a council resolution then and not a local law. Jeff McGann said it would be in the city code and probably not in the zoning code. He said as an example he had someone within the last few weeks between 7th and 8th on East Utica Street looking to widen their driveway. He said they also have a single car garage and were told they have to feather it. He said many have had to do that. He said if you change this one he doesn't see how you pick and choose. James Scanlon asked what the fear is for a 15 foot width. He asked if it was too narrow for her. Ms. Weissflog said it was for two cars side-by-side with the doors open. She said there is no disagreeing as to whether there is room to enter or exit. She said it is about the aesthetics. Chairman Freeman said they have made other people feather it. Ms. Weissflog said she isn't disagreeing with that. She said she also knows her neighbor did her driveway a few years ago and she never came into this room. She said she also lives across the street from a Tyvek house that has more police reports and other issues. Jeff McGann said they can't be everywhere. He said this Board has to make a decision on her driveway and the law and not based on what someone else may have done or the police calls to a Tyvek house. He said that is a conversation for a different day and has no bearing on their decision. Brit Hallenbeck said the council makes laws and resolutions and they follow them. Chairman Freeman said a neighbor of his just put in a double-wide driveway and he was required to feather it. He said it really doesn't look that bad. Brit Hallenbeck said at a certain point you just have to look at what you applied for and decide whether you want to move forward with that or not. Ms. Weissflog said she is asking if it is possible to change this. She said if not then she's just going with what she submitted. Jeffrey Hinderliter said legally she can't park three cars unless she parks them side-by-side if they are saying she can't park in public space. He said he understands the letter of the law but as a Planning Board they are looking at neighborhoods and what is best for that neighborhood. He said he doesn't think this is an unreasonable request. He asked if this was a concrete pad for trash cans would they have an issue with it. He said if they are in a neighborhood where it is tighter then that is a different context. Brit Hallenbeck said this drawing is not to scale. He said the feather would be twice as long so she is going to park four cars there, two and two. Ms. Weissflog said she guarantees she will not because she can't afford four cars. Brit Hallenbeck said she said at the beginning of the application that she would have four cars. Ms. Weissflog said if she retires and lives here for the rest of her life and her kids come with her grandkids to visit her then they will have a vehicle. Jeffrey Hinderliter said a typical parking spot is 18 feet.

BH said going forward he thinks they have to know that there will be cars parked in public space. Jeffrey Hinderliter said the reason this law came into existence is because of what happens in our tight neighborhoods in the college areas where people pull their cars wherever. He said this isn't a college rental. He said he doesn't think this is unreasonable. Brit Hallenbeck said the Council did at some point. He asked if that is a legally defensible thing that they can do. Mr. Caraccioli said the provision that is in question says no person shall henceforth park any vehicle between the curb and private property line on any street. He said you can't park your vehicle in this area. Ms. Weissflog asked if she can use it to exit onto the street. Mr. Caraccioli said you can use it to exit but you cannot park there. He said he thinks what forced the change was the conversion of green space into paved areas. Ms. Weissflog said this isn't that though. Brit Hallenbeck said it literally is. He said it is turning public green space into paving. He said he doesn't care either way but he is just saying that is what it is. Mr. Caraccioli said there is converting and then there is creating a driveway. He said you can't just have a driveway on your space and then roll over the green space. He said their code does allow for a driveway to cut through that green space and onto the road. He said what is being proposed here is essentially a double of that driveway to accommodate multiple cars that presumably could accommodate four cars stacked 2 x 2 and still be inside the private property line. Brit Hallenbeck said it won't because it is 31½ feet. Jeffrey Hinderliter said that provision of the law isn't in zoning or planning. He said it is a general law and a ticketable offense. Mr. Caraccioli said it is an enforcement issue. Jeffrey Hinderliter said he doesn't see how this is detrimental to the neighborhood. Mr. Caraccioli said there are two parts to this application, the site plan itself which they have control over and the front yard parking that goes to the ZBA. He said this is taking green space that the property owner owns and converting it into parking. He said where that conflicts with what the city is trying to clean up is that portion of front yard parking that is in public space and how they handle that. Brit Hallenbeck said that is what Jeff McGann was talking about that by feathering it it minimizes the amount of public green space taken. Brit Hallenbeck said he is all for doing it but he knows for a fact that the next time someone wants to take up green space and they throw a fit he is going to bring this up. Jeffrey Hinderliter said green space in the first ward is fundamentally different than the green space where this property is. Brit Hallenbeck said he disagrees completely. He asked if lot coverage changes by zones. Chairman Freeman said when Mr. Pauldine talked about the work he was going to do at the pool he specifically remembers that Jeffrey Hinderliter wanted to make sure there were enough spots in that parking lot for green space and green space in the front. Ms. Weissflog said she is well above the proportion for green space versus paved area. Jeff McGann said she is below her pavement coverage. He said she could do more on her own property. He said it was the public space that is the catch. Jeffrey Hinderliter said if the Planning Board doesn't have discretion over the context of the neighborhood then they shouldn't be a Planning Board. James Scanlon asked if they have to table this to have her come back with it squared off. Ms. Weissflog said she doesn't want to table any discussion because she has contractors. She said she would like to amend it if that is something they can do. She said if it is something that she has to wait another month and come back then she will lose her contractors. Mr. Caraccioli said he doesn't think they have to delay this. Jeff McGann said if someone on West 3rd Street comes in tomorrow and wants to do the same type of driveway then where does he make the determination of where they can and where they can't do this. Jeffrey Hinderliter said it would

be the Board's determination. Mr. Caraccioli read Section 280–37 Subsection C to the Board. He said if there is a desire to modify or approve a modification he thinks this provides a basis for doing so. He said they just have to be careful how any approval like that is granted so you minimize the argument that it is creating a precedent. Chairman Freeman said he can see where in the winter time, with a cut off driveway like that, the green space is going to get chewed up. Ms. Weissflog said the only reason she wants to do it is for the way it looks. Chairman Freeman asked if they were any questions from the public and no one came forward.

**DECISION:** Jeffrey Hinderliter made a motion for site plan approval. Motion seconded by Chairman Freeman, unanimous approval.

2. Advisory to the ZBA – 265 East Seventh Street, Case 21-39; to allow for front yard parking, Section 280-42(B).

**DECISION:** Jeffrey Hinderliter made a motion for a favorable advisory to the ZBA for a special permit. Motion seconded by Cory Moshier, unanimous approval.

3. Site Plan Review & Approval – 7 East Fourth Street, Case 21-30; to allow for a two-family dwelling, Section 280-35 thru 280-37.

**DISCUSSION:** Atom Avery was present for the discussion. Mr. Avery said last year he purchased about six houses from the county. He said this one he didn't get initially because someone else got it. He said he has a really good crew right now fixing up houses in the city and he is trying to keep everyone busy. He said this house has been vacant for 5+ years. He said this is a two-family. He said it is designed and laid out already as a two-family but it has lost its status because it was vacant. He said he is back here asking for the status to be returned. He said his game plan is to modify the property a little bit and put the parking to the north of the building. He said they are not going to have the driveway to the south of the building because it is pretty close to the neighbor to the south. He said that will return to green space on the south side of the building. He said he is here asking for permission to make this a legal two-family. He said it doesn't feel like a conversion but more like asking for permission to put it back to what it is. Jeff McGann said this was a two-family and sat vacant. He said the law says that if it sits vacant for more than a year it loses its status and reverts back to a single family. He said in a Traditional Neighborhood 2, a two-family is allowed by special permit. Mr. Avery said on the south side it would be stackable which doesn't make sense for a duplex. He said if they move it to the north side they have more room. Jeff McGann said it takes the parking away from the neighbor and puts it on the side that has a vacant lot. Jeffrey Hinderliter said it looks like there is a utility pole guide wire there. Mr. Avery said he has already talked to National Grid and it is not a problem to move that. Jeffrey Hinderliter asked if the tree is going to stay there or come down. Mr. Avery said there is no tree there anymore. Jeffrey Hinderliter said the curb is already gone. Mr. Avery said yes. He said he doesn't require a curb cut. He said the house needs a lot of work but it is a nice lot and the neighborhood is great. Jeff McGann said Mr. Avery met with Councilor Burrige and he is in support. Jeffrey Hinderliter said he likes to see houses saved. Mr. Caraccioli said the house was built as a two-family. James Scanlon said this will be a main corridor to the Fort and to clean this up and make it look good will be a plus. Kim McPherson asked if the lot on the north side is the City's. Mr. Avery said it is privately owned. He said he has reached out to the owner to try and buy it. Mr. Caraccioli said the property class code still shows it as a two-family residence. Chairman Freeman asked if there were any questions from the public and no one came forward.

**DECISION:** Brit Hallenbeck made a motion for site plan approval. Motion seconded by Cory Moshier, unanimous approval.

4. Off-Street Parking Plan Review & Approval – 7 East Fourth Street, Case 21-31; to allow parking for a two-family dwelling, Section 280-39(A)(1)(a).

**DISCUSSION:** Chairman Freeman asked if there were any questions from the public and no one came forward.

**DECISION:** James Scanlon made a motion for off-street parking plan approval. Motion seconded by Brit Hallenbeck, unanimous approval.

5. Advisory to the ZBA – Special Permit – 7 East Fourth Street, Case 21-32; to allow for a two-family dwelling, Section 280-13(B).

**DECISION:** Cory Moshier made a motion for a favorable advisory to the ZBA for a special permit. Motion seconded by Jeffrey Hinderliter, unanimous approval.

6. Site Plan Review & Approval – 190-200 West Bridge Street, Case 21-33; to allow for a restaurant with drive-through facility and parking lot, Section 280-35 thru 280-37.

**DISCUSSION:** David Schlosser, architect representing Tully's Restaurants, was present for the discussion. Mr. Schlosser said Tully's Restaurants purchased the former Friendly's property. He said they are proposing to convert this to Tully's Tenders. He said it is geared to a fast food market such as takeout and drive-through. He said the existing building is a little over 2,200 square feet and will remain the same size. He said the seating capacity will be about nine tables. He said there will be no alcohol and no bar. He said it'll be pretty much like their food truck service and menu. He said the existing site has two curb cuts on West Bridge Street and then a full width curb cut on Turrill. He said the asphalt paving to the west will remain as is. He said they will resurface it, re-stripe it, and modify the circulation in it. He said there will be no change in the curb cuts on West Bridge Street. He said they end up with a little over 33 parking spaces and a defined stacking space for the drive-through. He said the stacking is about 12 vehicles without interfering with parking. He said they will close down the full access onto Turrill by putting up a wood rail leaving an emergency exit only onto Turrill. He said the exterior façade would be modified. He said they will repaint the brick, add new landscape to the front of the building, and new awnings to the building. He said they are requesting a special permit for the drive-through. He said they are also requesting two variances for the paved area and the site coverage. He said they are exceeding code substantially on both of these but it will be the same percentage of coverage as Friendly's was which is in the 80% to 90% category. Jeffrey Hinderliter asked if the exit onto Turrill is emergency only. Mr. Schlosser said they are putting an exit only sign there. Jeffrey Hinderliter asked if you can use it to leave. Mr. Schlosser said yes. Chairman Freeman asked if they've talked to DOT yet. Mr. Schlosser said they are not making any changes to curb cuts. He said they would like to avoid DOT as much as possible. Mr. Caraccioli said the elimination of the house to the east eliminates any concern with egress or ingress onto 104 because they are using the currently established ingress and egress. James Scanlon asked the reasoning for limiting Turrill Street exit. Mr. Schlosser said from a staffing standpoint if they leave it open they will have cars coming in all directions. Jeffrey Hinderliter asked which side of the driveway the guard rail will face. Mr. Schlosser said it is solid wood so it is the same both ways. Jeffrey Hinderliter said this detail shows a single galvanized post. Mr. Schlosser said that is being changed to wood. Jeffrey Hinderliter asked about the drainage plan. Mr. Schlosser said it currently drains from north to south. He said they are adding a catch basin. Chairman Freeman asked about the right hand side. Mr. Schlosser said they are putting a 6 foot high screen fence. Jeffrey Hinderliter said it is a great use of the structure. Mr. Schlosser said the size lays out nicely for this new model. Chairman Freeman asked if there will be outdoor seating. Mr. Schlosser said not right now. Jeffrey Hinderliter said they will utilize the existing utility connections. Mr. Schlosser said yes. He said everything inside will be torn up and reconfigured. He said they will be putting in a new grease interceptor. Chairman Freeman asked if the garbage bins will be fenced in. Mr. Schlosser said that area is being redone. He said there will be two dumpsters. Chairman Freeman asked if there were any questions from the public and no one came forward. Mr. Caraccioli said they made a motion to declare all actions Type II unless otherwise specified. He said he thinks this requires special mention. He said the applicant did submit a short Environmental Assessment Form but he still believes this is a Type

II action. He said this involves the construction or expansion of a primary or accessory non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change of zoning or a use variance. He said it is his opinion that this qualifies as a Type II action. He said there would not be a need for any further environmental review. He said he would like to add one condition to the motion. He said because of the property's proximity to Route 104 it triggers the County 239 review. He said that request for review was submitted by the zoning department to the county but they haven't received comments yet. He said because it needs to be reviewed by ZBA and they have a high degree of confidence that they will get it before the ZBA meeting he would propose that the site plan approval be conditioned upon the receipt of the county's 239 review. He said if by some chance it has recommendations to change the site plan in some way there is a possibility that they may have to review again based on that.

**DECISION:** Brit Hallenbeck made a motion for site plan approval. Motion seconded by Chairman Freeman, unanimous approval.

7. Off-Street Parking Plan Review & Approval – 190-200 West Bridge Street, Case 21-34; to allow parking for a restaurant with drive-through facility, Section 280-39(H).

**DECISION:** Jeffrey Hinderliter made a motion for off-street parking plan approval. Motion seconded by Brit Hallenbeck, unanimous approval.

8. Advisory to the ZBA – Special permit – 190-200 West Bridge Street, Case 21-35; to allow for a drive-through, Section 280-17(B).

**DECISION:** Cory Moshier made a motion for a favorable advisory to the ZBA for a special permit. Motion seconded by James Scanlon, unanimous approval.

9. Advisory to the ZBA – Area Variance – Maximum Lot Coverage – 190-200 West Bridge Street, Case 21-36; to allow for a restaurant with drive-through facility, Section 280-17(C).

**DECISION:** Brit Hallenbeck made a motion for favorable advisory to the ZBA for a Maximum Lot Coverage Variance. Motion seconded by Cory Moshier, unanimous approval.

10. Advisory to the ZBA – Area Variance – Maximum Paved Area – 190-200 West Bridge Street, Case 21-37; to allow for a parking lot for a restaurant with drive-through facility, Section 280-17(C).

**DECISION:** Jeffrey Hinderliter made a motion for favorable advisory to the ZBA for a Maximum Paved Area Variance. Motion seconded by Brit Hallenbeck, unanimous approval.

Brit Hallenbeck made a motion to adjourn at p.m. Motion seconded by James Scanlon, unanimous approval.

Approved: \_\_\_\_\_

Richard Freeman

Planning Board Chairperson

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Jeff McGann

Planning Board Secretary