

Village of Skaneateles
Zoning Board of Appeals Hearing
June 23, 2009

In the matter of the application submitted by DanLin, LLC to vary/waive the strict application of Section 225-58, Off-street parking and loading requirements, and the interpretation and/or the application of the Parking Trust Fund, for the change of use from office to retail for a portion of the building located at 54-56 East Genesee Street in the Village of Skaneateles.

Present: Lisa Banuski, Chairman
 John Cromp, Member
 Craig Phinney, Member
 Larry Pardee, Member
 Lee Buttolph, Member

Jorge Batlle, Clerk to the Zoning Board of Appeals
Riccardo Galbato, Attorney for the Zoning Board of Appeals

Linda Roche, Applicant

Cathy Schneider, Skan. Artisans
Barbara Schram, Skan. Artisans
M/M Bersani, Lakeview Circle
Bruce Keller, Legg Hall
Sue Dailey, Legg Hall
Sue Dove, Skan. Chamber of Commerce

Chairman Banuski opened the public hearing at 8:02pm announcing the application of DanLin, LLC. She said, "Linda, I'm glad that you came here. I know this is a hot button issue and that's why we have a lot of people here. I am going to just say that this Board can only hear this application under the current law. So, anyone who has something to say about changing the law, this is not the forum for that. We don't make laws. We don't change laws. So, all we can do is work with the law that's in effect now. So, just as we are going by – we've spent a lot of time on parking issues – the minutes. We know that you have put in a lot of hours with this issue, Linda and coming for this. But our hands are tied as far as what issues we can consider tonight."

Linda Roche, applicant, said, "I did not realize that. I thought that this Board had some say." The Chairman said, "we can do a variance. But our variance allowance on the parking according to the current ordinance is 20%. And that has to go to the Board of Trustees. That's all that even - no matter what they only let us do a 20% variance on the parking." Roche said, "and the new law is that..." "...it doesn't exist. It doesn't exist as we speak," said Member Phinney. Roche said, "that leads to why I'm so frustrated is because we started this a couple of months ago to bring it to the table because we have vacant places there. The girls that are behind me are part of the gallery that's trying to get in here for Summer..." (Side B)

Member Phinney said, “you may want to hear Lisa out for what else she has to say on this – in addition to what you are saying. She may have a partial solution to you situation.”

Chairman Banuski said, “I can tell you this Board can do. We can look at the numbers of the parking spaces that you have and the number of the parking spaces that are required by the current law. We can grant you, if everyone votes that way, a 20% variance. Then you can go, and with a recommendation to the Trustees to waive a parking fee. That is not up to us to waive the fee. We can give them our recommendation to waive – to give you a variance for more and to waive the fee. You would go back to the Trustees for that. So, the flip side of that is I don’t know when there’s going to be a new law. I know that’s it’s being worked on and being fine tuned and tweaked and what ever. If the new law is – I don’t really even know the status of the new law right now. I guess they are talking about it in the next few weeks. If it’s really eminent, you could just come back smug and hear it under the new law. But, we can’t do that apparently. So, let’s proceed with what’s required.” (multiple conversations)

Roche said, “...what I’m trying to ask everybody in there, last night, if I let this gallery in, what is the penalty to me? What is the penalty if I let this gallery go in in July?” The Chairman said, “I don’t know and I’m not the person who could tell you what it is because I don’t do enforcing or what ever.? Batlle said, “a *Cease and Desist* Order and you possibly go to court.” The Chairman said, “if someone orders you to Cease and Desist.” Roche said, “and then you go to court.” Attorney Galbato said, “our Code calls for a certain amount of fines per day based on the violation of the Code.” Roche asked, “does anybody know the fines per day?” Galbato said, “there are 2 sets of fines. One is in the Zoning Ordinance and one is under the...” “...they can be pretty hefty when they start adding up day-by-day,” said the Chairman. Galbato said, “it’s in a per diem.” The Chairman said, “someone would have to order you to cease and desist.” Unidentified said, “it would be Jorge.” Member Phinney said, “and it would also be based on the Trustees’ wanting to enforce vs. following the recommendation that we might give them. So the ball is 1000% of the Trustees scenario at this point.” The Chairman said, “we saw the minutes. We know what you’ve been doing. You’ve been to one Board and they said we want to trade. Then you go to the Planning Board and they said, well can’t the Zoning Board just do this?”

Roche said, “I’ve been frustrated. Every Board just keeps talking about it. In the meantime, the shops, 2 shops are vacant here. Here is a gallery that is going to add something to this community. I’m saying that if they don’t get in now that they are not going to take it. There’s a hardship there. To take it in August or September or October of the Fall, that’s why I’m frustrated. Because I got a wonderful situation that would enhance the Village.” The Chairman said, “that in fact reduces the parking impact.” Roche continued, “and that’s why I’m so frustrated.” Chairman Banuski said, “we feel your frustration. We share your frustration. In the year and a half that we’ve had this parking ordinance in effect every time it has come up before us it’s been very difficult to work with. Let me put it that way. And that’s putting it kindly. It’s very hard to apply it consistently from one instance to the next. From one application to the next that comes before us. As you know, we have had people who have paid, or said that they would pay, the Parking Trust Fund fee. So, we have to apply the law consistently as we go by. So please know that we understand your frustration of everyone that’s sitting here. It’s not unnoticed and we can do the numbers tonight.”

Roche said, "I had no idea." The Chairman said, "there is actually – this might not be as bad as you might think it is. If we do this variance tonight and act on this and give you the 20%, then it's back to the Trustees. And they can actually vote, not on the new law, but on waiving fees and that kind of thing for you. They can't do anything until we do this. So, if there is no new law eminent..." "...it doesn't go to the Trustees unless this Board not only grants a 20% waiver, but recommends to the Trustees," said Galbato. Member Phinney said, "and they could address it at their next meeting which should be in the next week." Member Crompt said, "in July." Galbato said, "July 13th." The Chairman said, "so at least that's 2 week solution instead of a 2 month's solution. It's the great bane and the great advantage of a slow moving system. Sometimes it's great to have it slow. Sometimes it's terrible."

Bruce Keller asked, "what does the 20% variance mean?" The Chairman replied, "in this case, there is a required parking for the entire building is 11 spaces, with the new occupancy. The parking spaces that are on-site are 4 spaces. The deficiency is 7 spaces. So, 20% of 7 is what we can give you. So we can give you a variance for 2 spaces for which there is no parking fee when we do that. That leaves you with a deficiency of 5 that we can recommend to the Trustees that they give you a variance. That they increase the variance to 7 and we can recommend that they waive the parking fee. Numerically, what we are looking at tonight. That is the reality. That is the absolute best that this Board can do for you tonight... I want to answer what ever questions that you have." Keller said, "you have answered my question." The Chairman continued, "but if they needed 20 spaces, we could do 20% of that. That's what that 20% ceiling is."

Keller asked, "where was the eleven spaces? Where does that number come from?" The Chairman replied, "because 3 apartments require 2 spaces each – that's 6. And 1500 square feet of retail space requires 5 spaces." Keller asked, "so it's the additional in the retail?" The Chairman said, "it's actually less than what it is. The office that was in there before required more spaces – required 7. So, it was that they required 13. Now they only require eleven. So, why, you wonder, are we here? Because it's a change." Member Phinney added, "and the way the law is written now..." Keller said, "I don't want to get into that now." The Chairman said, "any change starts the process from the beginning. It sounded good when that was first being promoted being as a parking solution. OK, no one who has the current building has to pay. But, someone who wants to develop it is going to have to figure out a way to solve the parking. Sounded good. But in practice it has not worked that way. So, I will say that maybe we should get on with this. I feel like I have commandeered this. How about the rest of you guys with the questions." Member Crompt said, "no, it is pretty much cut and dried."

At this point the Chairman was reminded to open the floor to comments as this is a public hearing. The Chairman opened the floor to anyone wishing to comment." Bruce Keller asked, "what do you expect Linda to do? It makes no sense to me." The Chairman said, "I expect that she..." "...because she has tenants that are or need to be eminent," said Keller. The Chairman said, "I will expect that she will take this next to the Trustees and ask them in a timely fashion to give her the permission to get it done." Keller asked, "but timely in this case is like a month from now?" Member Crompt said, "July, their next meeting is July 13th." Keller said, "these people need to be in there now." Member Crompt said, "nothing can be done about that. It's got to go

Schram continued, “yes, and after being here and I live at 51 East Lake, so I am a Village resident also. I realize the parking, but I also realize that the parking is there too. It’s being a hardship. A hardship to Linda and a hardship for us. Maybe in the long run for the Village and the County for their 8% sales tax they won’t collect.”

Schneider said, “can I also just add that we are all local artists. We are not a firm that is based in New York City that will come in with all of our CEOs. We’re local, and so we live here. We buy here. We sell here, and we’d like to sell here. So, we are not strangers.”

Keller asked, “I have a question about the specificity of the usage. Like it seems like it is pretty trivial change, to go from an office space to retail space.” The Chairman said, “it is.” Keller said, “it’s a no-brainer.” Member Crompt said, “that’s what exists.” Member Phinney said, “it’s what exists and it’s in the Zoning Law.” The Chairman said, “it’s a change of use. That is the specific phrase – change of use, and it is a change of use to go from an office space to a retail space.” Member Phinney said, “it has to do with the amount of parking.” The Chairman said, “and that triggers the Local Law.” Keller asked, “and this is specific in the Local Law?” The Chairman said, “correct.”

Sue Dove from the Skaneateles Chamber of Commerce said, “I would thank you for explaining the law that exists today. I encourage you to do what you can with the 20%. I encourage Linda to go to get this to the Village Board ASAP. Then Linda, I will help you approach the Village Board and get a special meeting to get this going as quick as we can. I would not encourage them to try and pass this new law. It’s done too hastily. We have to make sure that the new law is right, and I don’t feel that. All that people that should have not weighed in yet to make it right. So let’s try to work with the confines that we have to get you guys going and get you in there ASAP.”

Member Phinney said, “at this particular point you are on the fastest track you be on according to the existing law. But what ever that may be, obviously it’s not fast enough and I certainly have lived in recreational areas for my entire adult life and junior life, where everywhere I have lived people work 50 weeks a year to come to. Whether it’s here or some where else. I certainly understand the retail scenario. For a short season, I am also in the ski industry, so I understand a very tight window. You loose Christmas, you loose your life. So we aren’t trying to work against you. We are trying to do the best we can with what we have to work with now. Of course, we didn’t know this was coming up in the future it would even be more frustrating. Now we do know that there is a possible cure in the future to do it. Sue is absolutely correct. It’s not ready yet at all in the form that it is in. So, I think, we can do our best now and hopefully we are not that far from the 4th, depending on how fast you can talk to Trustees.”

Schram said, “from last night’s meeting, is there a way that law as its read and it encompassed many different properties and uses within the Village. I can understand why those need to be addressed. But this particular one as far as retail and office space, is there a way that they can act on amending just that portion of the law before they have to go ahead and work on everything else?” Batlle said, “that was addressed last night and Village Attorney Byrne said no, they can not do that. They want to do the entire law because it is all interwoven. Then can not

take it in parts.” Schram said, “he said that he can not. But there is no way?” Batlle said, “the Attorney advised the Trustees that there is no way to do it piece meal.” Schram asked, “you just can’t amend that one particular article?” Batlle said, “no. He did not recommend that the Trustees do that. And he is the Village Attorney.”

Member Buttolph said, “we are just here to follow the laws that is written today. That’s really for another meeting.” Member Cramp said, “well, like Craig says, this is the fastest way to go.” Member Phinney added, “and only way.”

Sue Dailey said, “I would just like to first of all applaud the Board for being sensitive to this issue and none of the buildings in the party wall area will ever meet parking criteria because they were built before cars. I would just like to say that myself at several of our meetings, annual meeting, all of our residents actually last night at our annual meeting, wanted to voice their support for the project as long as it didn’t impede our egress. I know that Jorge will be watching out for that for safety reasons. Thank you.”

The Chairman asked for any other comments? None were voiced. The Chairman moved to close the public hearing. Seconded by Member Pardee. The vote was 5-0 in favor of the motion.

The Chairman said, **“I recommend that in the matter of the application submitted by DanLin, LLC. That we grant a 20% parking variance which is the equivalent of 2 spaces. This leave a remainder of 5 spaces. The Zoning Board strongly recommends to the Ville Board of Trustees that they grant a variance for the remaining five required spaces and waive the Parking Fund Fee.”**

Seconded by Member Phinney. The vote was 5-0 in favor of the motion. The motion was declared passed. The meeting was closed at 8:26pm.

cc: Roche

cc via email: Mayor, Trustees, Galbata, Byrne

Eggleston, Ramsford