

Village of Skaneateles
Planning Board Meeting
August 6, 2009

In the matter of the application submitted by Doug Clark, to vary/waive the strict application of Section 225-58, Off-street Parking and Loading requirements and the interpretation and/or application of the Parking Trust Fund, for the change of use from office to retail for the structure located at the rear of 10 Jordan Street in the Village of Skaneateles.

Present: Bruce Kenan, Chairman
 Lauren Waite, Member
 William Eberhardt, Member
 Douglas Sutherland, Member

 Jorge Batlle, Clark to the Planning Board
 Ricardo Galbato, Attorney for the Planning Board

 Doug Clark, Applicant
 Robert Eggleston, Architect for the applicant

 Clifford Abrams, State Street
 Greg Sgromo, Syracuse

Absent: Steve Krause, Member

 Chairman Kenan opened the meeting at 7:40pm announcing the application of Doug Clark for the property at the rear of 10 Jordan Street, known as the old dining room building.

 Robert Eggleston, Architect for the applicant made the presentation. He said, “as you remember back in 2006, Mark Edwards came in with an application in that he has purchased the Doug’s Fish Fry and then the next building which had The Beading Rainbow and the Skaneateles Office Supply store in it. He got permission to move the dining room from the separate dining room building into the retail space. So that he now occupies that building. Clara Clark owned the building on the end which is now ReMax Real Estate. Then, as part of the application, because the Planning Board wanted to make sure in that we were doing an exchange of office/retail for this space over to this space, the dining room back into there - they wanted to guarantee that this would not become dining room or something else. So, they had Doug do a Critical Impact application, which what was granted was either retail or office space.

 Doug’s Fish Fry project went ahead and it wasn’t until April 2006 that Sundance Health Food occupied the building, based on the 2005 Critical Impact Permit. They occupied it until February of 2007 and then the building was vacant until November 2007. Then ReMax Real Estate which had this space (10 Jordan) said gee, it’s empty, we could use a little more space. So, they occupied the space. Doug thought that the Critical Impact was for both retail-office interchangeable. I guess that’s a question we are not quite sure as I haven’t heard a definitive

answer on that yet. In the alternative, there was never a separate Critical Impact application for the office, officially changing to office. If it required to be changed to office. The Real estate was there from November of 2007 to march 2009. That's when Christy Winkelman, a local resident, decided to open up a clothing retail store called, *Echo off the Lake*. So, she occupies the space and Doug thought that because the 2005 Critical Impact was for retail/office it was permitted and OK. It wasn't until Doug recently got the letter from Jorge Battle stating that you don't have a Critical Impact for this use, he was requested to make application for the Critical Impact. The retail is under 3,000 square feet. Actually 1480 square feet of space in the building. It is permitted by right, so there's no special permit, there's no site plan review. But there would be critical Impact for a change of use. Then of course, the question of parking would come up relative to that. Or the question is – is there no change of use because the approved use was retail? Maybe the office shouldn't have gone in there but, the office was never formally recognized by the Village and therefore there's no change because we are going back to retail.

I guess, I'm not quite exactly sure whether we are applying for a Critical Impact Permit or if we are asking for an interpretation. I did send an e-mail out to Rick and Mike Byrne and Jorge and I'm not sure that I got a definitive answer. Obviously Rick, I don't know if you have an opinion about what exactly we are asking for. We are asking for an interpretation – whether this ever changed from retail to office and therefore it needs to be changed back to office. Of if the original Critical Impact was for interchangeable office or retail, because that's actually what the Critical Impact says. It's office or retail. And therefore no permits are required because it's one of the permitted uses that we have. I guess, there's our story. I do explain a little bit about Echoes in the Lake. It's a typical small shop. It's a high end consignment shop selling both men and women's clothing. Hours are typically 10 to 5 and occasionally in the evening. Deliveries are typically UPS. In fact a lot of times she'll have things delivered to her home, and she just brings them in instead of having it delivered on-site. Minimal trash recyclables are created at the store. Signs will conform to the Village Ordinance. They will be placed on the east side and the south side of the building. As far as the amount of water it requires, there is only one employee on-site. It's 15 gallons per day, which is very minimal.

Then as far as the parking – the parking requirements are no different than what was approved in 2005. The building has 1480 square feet of gross area, which required 4.9 car, or 5 cars. I know there's some talk in the new zoning about going to net area instead of gross area. That's 1260, which is 4 cars. Obviously, when it was occupied as an office building, the current zoning requires 7 or 6 depending if you go gross or net. There is relative to – do they have right in parking? I have supplied you with the 1968 agreement that was done with the eleven owners in this area, and on file with the County Clerk, that says *it is mutually understood that the entire parking area is for the use of all but each party hereto agrees not to use the parking area in such a manner as to be a detriment to the other parties hereto*. Then I have gone through the Critical Impact criteria. So, I open it to discussion as to what we are doing and how do we approach this.”

Chairman Kenan asked, “do we have any guidance from counsel on what is to be done with this. If the approval that's on the record is for the same use that's proposed or exists?” Attorney Galbato said, “that's my question. The 6, 2005 minutes don't say.” Member Waite asked, “is that the Critical Impact?” Galbato said, “yes. It's the Critical Impact Resolution. Is

there some issuance from the Clerk or from Jorge after that Resolution that you are referring to?” Eggleston said, “what I have – I didn’t have the copy of the Trustees minutes because I typically don’t get those. I do have the resolution that the Planning Board made which was a recommendation to the Village Board.” Galbato said, “it looks like a clause is missing.” The Chairman said, “yes, there are some words missing.” Galbato said, “yes, there is something missing right there.” The Chairman said, “it looks like it saying from restaurant to retail. But the language is a little garbled.”

Galbato said, “the ZBA interprets the Code. Think this Board in a recent application passed a motion that recommended that the Code did not apply because this was not the intent of the Parking Ordinance. Then went on to say that if the ZBA determines that the Parking provisions did apply to that particular piece of property, that you were recommending that the ZBA grant a 20% waiver and then you also added that you further recommended that the Trustees grant an overall waiver or variance of the Parking ordinance. And that’s how this Board left it the last time this Board addressed the parking issue, which was for a couple of places down, the Linda Roche building. The Parking Ordinance is triggered by a change of use or increase by alteration. I think the question is if the applicant is asking for an interpretation, is this a change of use? I can’t speak to what happened to Doug other than what I see there. I don’t think there should be a benefit for not getting approval for when the office moved in there. I think the question is – is it a change of use?”

The Chairman said, “this is the meeting of the Board of Trustees, June 13, 2005 and there is a resolution that is carried five zip.” Galbato said, “I do have the May 5, ’05 Planning Board meeting minutes too if you need those.” The Chairman said, “again, this is action of the Village Trustees - *the Village grant Critical Impact Permits to Mark Edwards for the redevelopment of properties at 8, 10, 12 and 14 Jordan Street, from retail to restaurant use. And for the change of use from 1 Studio Place, from restaurant, with a condition that Mr. Edwards provide a reciprocal easement to retail allow, 2 lane vehicular traffic over the northeast corner of the property identified by Tax Map number, something, in exchange for a similar easement from the Village.* So, the words are there in funny order but it sure looks to me that is what they are saying or trying to say. Right now the Echoes on the Lake is there and in operation?” Eggleston said, “right.” The Chairman said, “another as-built.” Eggleston said, “yes, and again, Doug Clark thought he was within his rights to let them occupy. It wasn’t until it was brought to his attention via someone through Jorge Battle, that then he received a letter and we have responded immediately.”

The Chairman asked, “and if we considering a change from office to retail, the retail requires less parking or more parking?” Eggleston said, “today it requires less parking. We go from 7 parking places to 5 parking places.” Member Sutherland said, “this is pretty much like the Linda Roche circumstance where it’s a lesser requirement under the existing Ordinance to go from her office to the proposed retail use. So, when we recommended to the ZBA, it was with the idea is do you really want to trigger this when in fact the change of use is going to a use that under the existing Ordinance requires fewer spaces than the previous use.” Eggleston said, “and then, I don’t know how you count how many spaces are available because there’s this agreement of the general area that parking is generally available. And they could vote in the new parking regulations as written and this all goes away.”

The Chairman said, "seems like we need an interpretation any way you look at it. So, we should make a recommendation to the Zoning Board and turn over to them the issue of interpreting how to apply the Ordinance to the circumstance. Anyone have a motion in mind?"

Member Sutherland asked, "how close could we come to the previous recommendation we made to the ZBA regarding the Roche property? Could you sue the same words but take out that owner and insert the Doug Clark?" Eggleston said, "that was a definitive – there's no question there is a change of use and it was changing from office to retail. Here, the first question is, is there a change of use? Because office was never formally approved. Retail was clearly approved and clearly put in place. Then there is also the question as you read the text of the minutes that it was open to either office or retail. It is just very poorly - well, very ambiguous resolutions that came out of both the Planning Board recommendation and the Critical Impact. So, the first question is – in light of the history, is there a change of use required for this or is it appropriately zoned retail? The second is, if there is a change of use, and if parking provisions that is currently is on the books applies, then you make your recommendation of how to apply it. That then would follow possibly the Linda Roche resolution."

Member Sutherland said, "my inclination would be to let Bob representing Doug describe that to the ZBA and to try to keep ours slightly cleaner. That's kind of the rest of the story and a Paul Harvey take on things. It would seem to me that to try to keep our a little cleaner in letting them get deeper into the details might be appropriate in this case." The Chairman asked, "do you want to make a motion?" Member Sutherland said, "I would make the previous Linda Roche motion but change the names. In my view it's certainly that. On top of it there are a couple of other issues that I think that you could describe to them much better than we could put in a recommendation." The Chairman asked, "is that your motion?" Member Sutherland said, "as pathetic as it is, yes."

(The Linda Roche motion/recommendation) **I move that we recommend that the ZBA make an interpretation of whatever that code was in light of our understanding that the applicant is asking less parking that the additional fee is not triggered, the additional fee for parking spaces is not triggered. And should they decide not to make an interpretation, or that the interpretation does trigger the additional fee, we recommend that the ZBA grant a partial waiver, and that it is further sent to the Trustees for a full waiver.**

Eggleston said, "just because I was not following the Linda Roche every move, is that motion possibly a recommendation to the Board of Trustees." Member Sutherland asked Galbato to read the Linda Roche motion. Galbato said, "I don't have it but I will go by memory. This summarizes it. That the Planning Board recommended to the Zoning Board of Appeals that the Parking Ordinance did not apply to this situation, and was not intended to apply to this situation because the parking impact actually decreases. If the ZBA determined otherwise, and that the Parking Ordinance applied, then the Planning Board recommended to the ZBA to grant a 20% waiver of the parking requirements under the Parking Ordinance, and further resolve that the Planning Board recommended to the ZBA and the Board of Trustees for the Trustees to grant an overall 100% waiver of the parking requirements.

The above motion in **bold face** was seconded by Member Waite. The vote was 4-0 in favor of the motion. The meeting was closed at 7:57pm.

e-mail to: Eggleston, Galbato (cc) MJB