

Village of Skaneateles
Zoning Board of Appeals Hearing
December 28, 2010

In the matter of the application submitted by Kim Weitsman to vary the strict application of Section 225-A5, Density Control Schedule for Left side yard set-back, Right side yard set-back, Both side yards combined, Percentage of structure width/lot width and Section 225-69d, Non-conforming buildings structures and uses, extension or expansion, Section 225 1.1(c)(2) Site Plan Review, Sections 225-50 Special Use Permit and Section 225-44 and 225-52 Critical Impact Permit for renovations and addition to the Krebs Restaurant and on-site parking at 53 West Genesee Street in the Village of Skaneateles, as well as Site Plan Approval for 51 and 57 West Genesee Street

Present: Lisa Banuski, Chairman
John Crompt, 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

Andrew Ramsgard, Architect for the applicant

Gary Robinson, 17 East Street
Rev. Craig Lindsey, 52 West Genesee Street
John Havemeyer, 40 West Genesee Street
David Allyn, 14 West Lake Street
John Pidhirny, 16 West Lake Street
Joseph Steenckem, 45 West Genesee Street
Andy Peterson, 17 Academy Street

Chairman Banuski opened the public hearing at 8:02pm announcing the application of Kim Weitsman for 53 West Genesee Street.

Andrew Ramsgard, Architect for the applicant made the presentation. He said, "I will go through the architectural issues and variances and Gary (Robinson) would like to talk about the operation of the restaurant.

The proposed project is to architecturally restore the Krebs' dining room, the Krebs' upstairs and to completely remodel the Krebs' kitchen infrastructure and grounds. The first portion of the project would consolidate all the kitchen and the restaurant services to a location on the existing first floor of Krebs. Currently all these services are scattered throughout the basement and the out buildings around the site. All the cooking and the food preparation would be removed from the basement and would be located directly adjacent to the existing dining

room. The consolidation would not only result in better service to the Krebs' guests, but would reduce the overall square footage of the footprint of the restaurant by approximately 309 square feet, and accommodate all the handicap guests with a new elevator and bathrooms.

While the reduction in the footprint's square footage is only 309 square feet, the volume of the restaurant provided is reduced approximately 10,000 cubic feet. That's because the 2 sheds that are the out buildings, both of those are 2 story building, as you may know. And we are reducing the overall size volume of the building all together.

The restaurant is a lawful non-conforming commercial use in a residential neighborhood. It's been there for approximately 111 years. The proposed restaurant represents an opportunity to rectify a number of issues that have existed over many years. While the alteration of the non-conforming use is required a variance from the Zoning Board of Appeals, the overall proposed project results in a net reduction of the building area used on the property for the non-conforming use. The alteration proposed will require a percentage of lot width variance of 15.9%. The pre-existing, non-conforming side yard set-backs and the combined side yard set-backs variances will also be needed. The west side yard set-back will be reduced from 12.2 feet to 8.6 feet, not accounting for the bump out on this side of the building for the handicap accessibility. The smallest side yard set-back currently is 5 feet from the 2 existing 2 story buildings. So, we are actually opening up the side yard from what the existing is. In addition, the pre-existing non-conforming lot width requires a variance of 62.57 would also be required..

All the infrastructure needs in this historical establishment would be brought into compliance with the Building Code, Health Code and the Fire Code. As you know, this project is also require a review from the Board of Trustees for Critical Impact use and the plans address the following –

The plans for the proposed Critical Impact Use of this project meet to exceed all the requirements and regulations of Chapter 225-54, for Critical Impacts as itemized in the subsequent items below. The proposed Critical Impact Use will have a positive impact on the immediate neighborhood and this is an historically significant property and part of the community heritage for over 111 years. It will be modernized while still maintaining the residential character. Several dilapidated out building would be removed and the renovation of the restaurant will add to the curb appeal of the property and the surrounding properties. Use of screen trees and hedges as well as privacy fencing will be used to maintain the residential character of the neighborhood, while also providing adequate facilities for the operation of the establishment. The proposed Critical Impact Use will maintain the physical and esthetic context of the existing restaurant that has been there for 111 years. In addition to the building, which will match the front façade, the residential character, will maintain the residential look of the restaurant and remove the out buildings that are in the back. We are also going be restoring the front porch – restoring the whole western elevation. We'll be restoring the gardens. We'll be removing this portion of the back of the building, which is all the kitchen portions and the most dilapidated portion of the existing structure. And that's where we are proposing to rebuild everything, right back in there. As you can see, this is the existing west elevation which is this portion of the structure. What you don't see at this angle, this is all this stuff back which is back where we are re-creating the façade – mimicking the elevation. We are going to be putting on

new wood siding. We will be removing the aluminum siding. We will be restoring the porch to its original character, new windows, new roof and all that sort of thing. The historical sign will remain as is.

The proposed Critical Impact use will be maintained, enhance the natural boundaries between the site and the surrounding residential properties. We will be adding new plantings, and renovating the garden as well as creating a cutting garden in the back of the property. So they can have fresh flowers on the tables. The proposed Critical Impact use will provide the ability to develop and modernize the facilities to today's standards. Currently there is an existing hydrant right out in front of the property. The whole property will be provided with a sprinkler system which is required in a building of that size, which it currently does not have.

The proposed Critical Impact use will be in compliance with Chapter 167, Article 3 for sewers in the Village Code as amended in Local Law #1 of 1994 and has been amended in the future with all the applicable laws and regulations of the Village, the United States and the State governments.

Krebs is a valuable resource to the community. It's on a large and unique property. We are maintaining and restoring the Krebs restaurant to make it a vibrant and viable part of the community. As an asset it can not be ignored. Renovation and the remodel of the Krebs will restore the name, the sign and the and the quaint features that has made the Krebs as a vital component of the traditional Village pattern of development since its inception in 1899."

Chairman Banuski asked, "the screen, the plantings and all that – there is a 300 square foot patio here and I know that they are talking about selling off the 51 (West Genesee Street), but there is no plans, screening or planting on the property for that?" Ramsgard said, "that patio right here on the side, we are going to restore the gardens. Adams has decided that he is going to keep all the properties. We are sill going to restore the gardens, which are on the adjacent property. But, if you screen it, that would really change the look of that feature of the existing patio relationship to that garden." The Chairman said, "the last I saw in the minutes, those were going to be sold. And then from the point of view of plantings and screenings and what ever else, to have an outdoor dining area next door to a one family home would kind of be intrusive. So, right now the plan is to keep both the properties?" Ramsgard said, "to keep both properties." The Chairman asked, "but not to join them?" Ramsgard said, "way back to the original that we proposed back in the Summer, that was what we originally thought would make the most sense, for a million different reasons. For a lot of reasons that was rejected at the Planning Board level, so we agreed not to assemble the properties." The Chairman said, "but there's nothing to keep him from selling those next week, if he decides to. That really is just a matter for him to decide. So, that could change at any time. So, when I look at these, the cutting garden is behind the parking lot. That's why I think there should be some screening for the property next door." Ramsgard said, "we could extend that hedge down along to the back. There is a new hedge completely across the back of the 8 parking spaces in the back. We can extend that another 50 feet to the back of the corner of the building." The Chairman said, "I just seems it shouldn't be incumbent on who ever is living in that property to have the screening on their property." Ramsgard said, "that's easy to do. I don't think we want to go any farther than that, because then you start getting into the Gingko (tree). Connect it form here to here."

Member Buttolph said, “though anybody that bought that property next door – you would be buying it with that there, in effect any kind of value to the property. If he did decide to sell it at a later time and he would be buying it knowing what was there.” The Chairman said, “the point is that’s what all the conversation was about all the new planting to the west. It just seems that if your are protecting not just that property but the folks at the Presbyterian Manor and anyone who might be.” Ramsgard said, “You are right. We are halfway there already, so why not just go the rest of the way to the back of the building.” The Chairman said, “I’m sure that he does not want us to preclude him from having outdoor dining there.” Ramsgard said, “we really are trying not to change anything that has already been there.” he Chairman said, “that was something that just stuck right out at me, specially after the Planning Bioard meeting when it was going to be sold off.”

Ramsgard said, “Gary (Robinson) wants to talk about the restaurant operation and then we can come back to any questions.” Member Buttolph said, “I have a question about the parking for this house. I know that we have talked about that quite a few times that there’s no driveway or anything. Where’s that at?” Ramsgard said, “we don’t have a resolution for that. The Planning Board had made a strong recommendation based on discussions that the Village Board had had with us to talk with the Presbyterian Manor. That’s where it stands.” Chairman Banuski said, “that actually seems like a fairly elegant solution. I don’t know when we get into that because trying to put a driveway between the Krebs does take down a large beautiful old Ginkgo tree. And would probably come right to the property line. That would really be attractive for the house or for the restaurant there to have a driveway in between.” Member Phinney asked, “are those discussions on-going?” Rev. Craig Lindsey said, “I’m the Pastor of the Presbyterian Church and on the Board of the Presbyterian Manor. Presbyterian Manor Board was not in favor of this at all. They saw it as if you put a driveway in what’s to prevent from parking cars on that driveway? People talking outside the Presbyterian Manor late at night. Residents tend to go to bed at 9 o’clock. Having traffic coming in and out of the driveway there did not make sense to them. So, they didn’t want to do it.” The Chairman said, “it would just be for the dwelling next door, not for the restaurant.” Lindsey said, “at that point it was part of the restaurant property, so that’s where the discussion stopped.” The Chairman said, “so that’s a problem with selling that property no matter what.” Member Phinney said, “buyer beware.”

The Chairman said, “we are not really doing yet the public hearing comments. But we are going to have a little more information. Gary, would you like to speak about the restaurant operations?” Gary Robinson said, “the beauty of Kim and Adam buying the Krebs is that they want to keep it as Kreb-like as possible. They have no desire of designs to make it anything other than what it is, or what it was. Changing some of the menu items. There is no intent of outdoor dining at all. Specially if I have my way. We just want to keep it - open year round, 5 days a week. Probably close Mondays and Tuesdays. The only day it would be open would be Sunday brunch and then probably just the tavern open for dinner. Probably not the dining room - not certain of that. It is expected to be a dining room, and a tavern. They will have the same menu. The dining room and tavern will be the same menu. The difference being that upstairs in the tavern will just be open seating. There won’t be any reservations or anything like that. People will just walk in and go up there to dine. We are not sure what the dining room will be as far as the type of food and things like that. That’s it really. There’s not a whole lot – they want to keep

it as simple as possible. There is not designs for any kind of out outdoor activity, weddings or anything outside. In fact Adam likes the idea of keeping it the simpler the better. Open at 5 o'clock, and close for dining at ten. I'd expect the upstairs not to be open much past eleven. It's not meant to be a bar in any way, shape or form. It's meant to be a tavern, more for eating, with a bar. That's about it."

The Chairman said, "so conditions and restrictions kind of based on what you've outlined would not go amiss?" Robinson said, "no, not at all." Member Phinney asked, "how many turns were you hoping for?" Robinson said, "that's kind of the beauty of it too. If anyone else was doing this restaurant, they'd have to look at different things. In fact I remember someone else I spoke with, looked into doing it. They said that in order for this to be a restaurant, and had any hope of making any money, you'd have to be open 7 days a week. You'd have to do weddings. You'd have to do parties. And that would ??? me. He doesn't care about making money so we open at 5 o'clock." Member Phinney asked, "you are not looking to turn it twice, one, one and a half?" (multiple conversations) Robinson said, "...compared to Rosalie's, an hour and a half for a smaller table. 2 hours, 2 ½ for a larger table. We open at 5 and usually by 9 o'clock the last diner is seated. It's very rare at Rosalie's that we are open – that there is anyone in the restaurant past eleven. I would expect that to be the same. In fact, this would probably be quicker because it would be simpler food. It would be a much faster pace. Rosalie's takes quite a bit more time, where the Krebs would be much simpler. Much simpler menu."

Member Buttolph asked, "what's the –or maybe you haven't thought about it yet – what's the advertising plan for it? Is it to maximize it? To put a lot of money into advertising to keep people coming in there every night? Or is it what happens, happens?" Robinson said, "his intent for it to be a successful restaurant, only that he wants it to be a vibrant – he doesn't want it to be empty. Money is not the issue. He's donating to charity regardless if it makes money or not. I can pretty much guarantee you that it won't make money. It's almost a certainty, even if there wasn't any debt at all. That's not his intent. He just wants to save it as the Krebs. He does want it to be a very good restaurant. That's one thing that he tells me. It is to be a good restaurant where people want to go, great food, great atmosphere. Like it use to be. He remembers his parents and grandparents dining there and enjoying it, and a lot of other people that he's spoken to." The Chairman said, "well, that is him. It's nice to know that we can put these restrictions on it because the reality is that 5 years down the road, when it has the approval as a restaurant and it's ready to go and all modernized and he decides that he just doesn't want to do it anymore, then we have a restaurant with 200 seats." Robinson said, "I don't think that will be an issue. The other thing is if that ever happened, no one would by this restaurant because you couldn't make money at it." The Chairman said, "yes, not with restrictions like this." Robinson said, "those restrictions are not an issue at all. I don't know what you mean by restrictions. There's no outdoor dining, weddings or anything like that. That's no problem at all. The patio I think we'd like it to be used for a waiting area, people waiting for a table. Maybe Sunday brunch they would sit out there. But as of now, and I believe in the future there is not intent for dining. Outdoor dining is not fun for restaurants." The Chairman said, "the Krebs has done outdoor dining there. They have had weddings and charity parties and fund raisers." Ramsgard said, "there have been garden parties there. I don't remember them ever serving food out there." Robinson said, "if people wanted to wait out there, and have cocktails, that would probably be OK. OK with us if it's OK with the Board. I don't think it really matters. There is the Krebs' garden and people will

be out there. I think if it would be for some kind of a charity event or something like that, Frances House, I think that would be OK. But he does not want to get as much seating as possible out of it. It's more of the opposite. Just the opposite, kind of like less seating and just have it be full at what ever size it is. It's a beautiful thing. That's why I decided to do it. When you hear all these things, that's great. All the things that most restaurants have to do to be successful, he doesn't want to do. Not only does he not want to but doesn't have to. Things are great. Their true intensions is to keep the Krebs, the Krebs. Just be vibrant again and functional. It's a good thing."

Member Pardee said, "my biggest concern is the lack of parking. I know there's been some issues and talk about it, and some objections from a couple of the neighbors. But, I just think that 8 parking spaces for how many seats is just no where . It needs to be addressed. I don't know what you have to do to put it in – a doublewide driveway so you would have 2-way traffic going in and out? That means an additional curb cut? That means going to the State for that?" Ramsgard said, "it would be a DOT issue." Member Pardee continued, "it seems to me the way you've addressed the parking with the screening here, and I know your initial plan was for - 60 and then it was cut about in half, which I thought made a lot of sense. The second plan made a lot of sense. All this area...(multiple conversations)..." Batlle said, "one at a time." Ramsgard said, "I agree. We went round-robin several times on the application and we thought – we listened carefully to the loudest objection. I met with all the adjacent neighbors – directly adjacent to the property – some multiple times and initially I thought I had a lot of support. The support dwindled, dwindled and dwindled. Then it went away, as people changed their mind and made different decisions. That's OK. That's people's prerogative. So, we feel that we have the best application that we could put together at this point, to compromise and serve the main intent of this overall project which is to restore the Krebs to what it should be, and not limp along. Maybe that's something to talk about in the future. But we don't feel that we can solve that problem other than provide for handicap accessibility in the few spaces that we can get in, which are sort of there already on the property, really not making it any bigger that what is was. So, it's a compromise solution. We feel that this point it is the most appropriate one."

Chairman Banuski said, "they are between a rock and a hard place with us because as a Board we have felt from the beginning that to have an expansion of the restaurant that there needed to be on-site parking. But the Planning Board has spoken, I know, very strongly in opposition to on-site parking. So, this is the compromise and the Site Plan that we are to either approve or not."

Member Buttolph asked, "how does the parking moratorium effect this?" Ramsgard said, "the parking moratorium – the Village Board was very clear in the 2nd or the 3rd meeting that we had with them, that the parking moratorium was Village-wide and under the moratorium it removes the requirement to provide on-site parking for any need throughout the Village with the exception of residential A1, A2, A3, the personal parking spaces. 2 spaces per dwelling. I think that was the only thing out there. So, they were very clear." Member Buttolph asked, "so are we even voting on the parking?" Chairman Banuski said, "we are voting on this plan. We are not going back and amending on-site parking."

outdoor event. Has not had outdoor dining. There's been a bourbon tasting in the back yard one or twice over the last couple of years with 20 people there or something. If it's a matter of cocktails and some people sitting out there, fine. It's a matter of 300 people, tents for a wedding, that's worse than the parking lot. So, I'm very happy with what he's saying. You have a recommendation to restrict hours which I don't think is an issue. That's pretty business driven. They are not going to open at 4 for breakfast or close at 2 in the morning because there's nobody there to serve at those hours. He's already stated that there will be no outdoor dinner service, which I think is fine, which hopefully means that there is also no outdoor bands or PA systems or anything like that. So the other 2 recommendations are restrictions on the outdoor activities and noise levels. I think that the plan that he's verbalized is what the Board ought to say what is in place. Once again, 3 years from now, if Weitsman decides to sell it and the next guy come in, who knows, he might actually want to make money. Might want to have weddings or what ever else. I'm happy with the parking. I'm happy with no outdoor activities. I'm happy that my property value is not going to disappear. I think that the Board should move ahead with what the Planning Board suggested and what Gary has described as their operation."

Craig Lindsey said, "I'm not sure whether this is in favor or against. I love the plan. You guys have done a really good job of preserving a wonderful landmark in the Village. Not only am I on the Board for the Presbyterian Manor, I'm also the resident who lives right across the street at 52 West Genesee Street. So, when you are talking about backing up to the property, it is in my respect. 2 questions with it. In the first place, we are now going to have brunches on Sundays. How early are those going to be because there's a Lutheran Church there who also park on the street? Is there a way in which those could be coordinated? They have always had brunch but I believe it started at noon. I believe the Lutheran Church has both an 8:30 and an 11 o'clock service so there was a means to move cars. Just something to think through. It's not really parking - it's a turn around. Is there a way in which delivery trucks can drive onto the property rather than backing in, which stops Genesee Street at each delivery?"

Chairman Banuski asked, "can they park in this lot during the day now, and turn around?" Ramsgard replied, "they can. They have to do a 3-point. They can't circle around. They come in, they drive in to the parking area and then they back up into the hammerhead section of the driveway and then go back out. So, we've allowed for that. We originally had a circle around so they didn't ever have to back up. Now, they will have to do a 3-point turn." Member Phinney said, "which is better than it is now." Ramsgard added, "they won't be backing up off Genesee Street."

Joseph Steencken said, "two questions. How old is the Gingko tree? And how long do Gingko trees live?" Ramsgard said, "Lisa is the expert." Chairman Banuski said, "I know what kind of tree it is. I know it's a pretty big tree." Ramsgard said, "it's pretty big. We had Bartlett out there and those are 2 questions that I didn't ask them because I asked them about what kind of condition the tree was in and it is in great condition. I don't know how long they live or how big it is. It's go to be 50 or 60 years old just by the size of that thing." Steencken said, "what I was getting is that I don't put too much faith in the trees sitting there forever. Getting to the 8 parking places is that going to be used also for the truck turn around then? Ramsgard said, "yes. The deliveries would happen in the mornings. That's typically how it works in restaurants. Gary could probably explain that better. They will come in - the back door - the back door of the

kitchen is basically right in here which is off this piece where that shaded area is. So, the trucks pull in – they unload – it goes right into the kitchen. They back up into the hammerhead and then they go out.”

Steencken asked, “could there be some kind of restrictions on what hours they come and go?” Robinson said, “this place will operate pretty much as the same as Rosalie’s hours. We get them almost always in the morning. Not too early, because there’s really no one there on our end either to take deliveries.” Steencken said, “I live in an area there but I also have a place where I spend sometime in the week, Deliveries come at 5 o’clock, 6 o’clock am, and they are noisy. Also the trash pick-up comes at crazy hours. That’s a major noise factor. They are terribly noisy.” The Chairman said, “trash pick-up is pretty easy to regulate in Skaneateles because it’s not a municipal service. It is contracted, so that can be certainly be a requirement in a contract with the trash hauler for the hours that they do, and that’s something that we could consider with our conditions and restrictions.”

Member Phinney said, “I know it’s not the same, I live across from the Atheneum and they are the only other commercial business within a residential area pretty much on Genesee Street. The deliveries for there never start before 9 in the morning. Do they come in and do their delivery? Yes, but usually not early on that basis. I haven’t found it to be a problem.”

Steencken said, “next item – the Krebs has been in operation for 111 years as is with no parking. I assume they are making a profit because they have been able to close down in the winter and operate just in the summer and just evening hours. Why all of a sudden does that have to go to a full-time week and earlier lunch?” The Chairman said, “he said that it is not going to be open for lunch. Just Sunday brunch as it is now. Otherwise only dinner he said.” Steencken said, “by year round though.” Robinson said, “five days a week.” Member Phinney said, “versus seven. This is the first year that it wasn’t 7 days a week for 6 months.” Steencken said, “Ok. But summer and winter.” The Chairman said, “right.” Steencken said, “well that - we always breathe a sigh of relief on the street because parking has always been a problem. And it’s a little bit of a battle getting out of our driveway all summer-long. So, when winter rolls around, it’s kind of nice because you can see up the street a little bit and it’s not some kind of a roulette trying to get out. I rarely try to turn left there. Generally make a right turn out of there. So, I don’t know. It seems like my take on the Krebs is if the internal management of it could be upgraded, that will help go a long way to make a profit, without increasing hours. I’m not restaurateur.” Robinson said, “I doubt if they ever made a profit. I think the fact that they owned the building, paid for and they worked it themselves. I doubt that they made a profit – I’d be shocked. We certainly have to be open year round. Just for staffing and to hire people and to have a functional restaurant – in order to keep staff year round. Obviously, it won’t be as busy in the winter. We at Rosalie’s do 150 a night in the summer to doing 50 in the winter. It doesn’t matter how great a restaurant is, and I have told Adam this, there’s only so many people here, and so many people that will travel in the winter. I’d say most of the people who dine at the Krebs in the wintertime will be local people. That’s just based on my experience of how it is at Rosalie’s. It has to be open but be not nearly as busy. But it will be busier than not being open.”

The Chairman said, “I would imagine that weekends, Fridays and Saturdays would be – once November rolls around, and they open to November now anyway, other than Dickens

weekends, it's just like the rest of the Village. Fall comes and we all breathe that same sigh of relief that you are talking about where ever we live in the Village. It's nice to have the seasons change and have that laid back come back. I think that you would notice that it would not be the summer volume of traffic."

Steencken said, "I hate to be the fly in the ointment – 8 parking places, I still have a problem with that. Specially where it's at. There's a window through between the Presbyterian Manor and their garage – and trucks are coming in and the lights and activity, etc. – I don't know. As it is now, the only noise I hear from Krebs is in the evening when they are done and they are dumping the bottles out into the trash, the liquor bottles. So what? It's over and done with. So – Reverend Lindsey, he sees the back-up on traffic and trucks and noise and all that. I've never noticed that. I have never given it a thought because the Krebs is not been a nuisance in any manor, as it is, the way it sits."

Member Phinney said, "it would also seem that the buffers that they are putting in there, which hadn't existed before that you may in fact be more insulated from any ancillary noise you may have gotten from previous deliveries than you would have been in the past because you'll have a buffer that will be at least 6 feet high running all along the property on that side. So, I might actually in fact be quieter during the course of the summer. There's a buffer on both sides. We were just talking about the buffer on the east side as well as on the west side." Steencken said, "right now I have a 40 foot building as the buffer, the Krebs restaurant. So, what goes on west of the Krebs building..." "...understood, but they are talking about putting a buffer on the east side of that running all the way up to the building itself," said Member Phinney, "so that anything where the parking lot would be near will have a 6 foot buffer between you and them." Steencken asked, "will that be a soil berm?" Ramsgard said, "hedge." The Chairman said, "an evergreen hedge." Member Buttolph said, "I assume that it will be staring off as a very large hedge." The Chairman gave the drawing to Steencken. She said, "look at this and try to see what we are talking about." Member Phinney explains the drawing to Steencken.

Steencken said, "I've got lots of protection now because I have a house there, a garage there and a house there." Member Phinney said, "which still exist." Steencken said, "but all the traffic came in here." Member Phinney said, "it still will. It's the only place it's going to come in. The only place where the traffic can come in is on this side." Steencken said, "but then it will come in here – headlights or diesel engines and then back out this way." Member Pardee said, "that's going to be 10 o'clock in the morning, for a delivery truck." The Chairman said, "the hedge should mitigate that." Member Pardee said, "you live in a Village. You are not going to have zero noise." Steencken said, "I know that. Things have improved out on Genesee Street as far as the truck reduction. I don't know where they went. It's a lot quieter than it used to be. I live in the Village and I know there's noise. I live on Genesee Street. I have the Fire Department up the street. They are great guys and I wouldn't want to live without them. I was just looking at it as a residential non-conforming and now we are expanding the commercialization of that property. It's a bad trend for the Village if anybody else comes along and want to build on that."

The Chairman said, "the saving grace about that, as far as setting a precedent, is that it is an existing restaurant and A-1 and we've been very successful as a Village in preserving our residential gateways along Genesee Street to the east and to the west as far as not having our

houses turned into offices and dry cleaners. Anything that would be in and out commercial. We are residential pretty much other than what was existing there. The Athenaeum was an exception but that was once a nursing home back in the 40s. The only other thing that I can think of that even comes close to being that is Carlile the dentist. The Krebs, Dr. Carlile, those have been there for decades.” Batlle said, “the fire station used to be a gas station.” The Chairman said, “yes, there were 3 right along in that corridor. So as far as setting a precedent, you can rest easy that there won’t be people opening boutiques in their homes along West Genesee Street. This is an expansion of something that been in business for over a century. Just to set your mind at ease with that. Not only this Board but the Trustees and the Planning Board are very vigorous defenders of our residential gateways.”

The Chairman asked, “is there any who would like to speak in opposition, or make a comment of any kind while we have the public hearing open? No one else wants to speak? I move that we close the public hearing.” Attorney Galbato asked, “do you want to close it or leave it open until the next meeting? I think the concern was that some people that came in to talk with Jorge or look at some of the minutes – there was discussion that we were having a special meeting next week, so they might not have come tonight because of the those representations when we thought that we were not going to have a presentation.” The Chairman said, “we will not be meeting next week since we were able to have everyone come tonight.”

Ramsgard said, “we don’t want to leave this open until next month.” The Chairman said, “we are worried that people might not have attended tonight thinking that you were going to come and speak next week.” Ramsgard said, “so I’ll come and speak next week. I don’t want to leave this open until February.” The Chairman said, “not until February. To the end of January. The reality is Andy, since this was our first time as a Board seeing this project, we were never going to vote on it at the first meeting. That was probably not going to happen whether it was tonight or next week. It’s the first time we’ve had a chance to hear from neighbors and get everyone’s input. So, chances are we would have – not even chances are – I’m sure we would have reserved our decision for the end of January regardless. That’s pretty much, on a big project like this, standard operating procedure now.” Ramsgard asked, could you leave it open for written submittal – close the public hearing and at least we should be going to the Village Board? We still have Critical Impact to go through. If somebody really wants to comment – what I’m saying is that you are going to go to another meeting in January and reopen the public hearing.”

Galbato said, “reopen the public hearing, and consider a written resolution on the variances needed and also the Special Use Permit.” Chairman Banuski said, “I’m feeling pretty confident that we’ll be able to have a decision that end of January.” Member Phinney said, “have a vote at the end of that meeting.” The Chairman said, “I have some notes that I’ve made, things that I would bring up as we come to a vote, and work out a resolution.”

Pidhirny asked, “why would you not vote on what was advertised as being on the schedule tonight as a hearing and you would say yes or no? I did not hear anything here tonight that would say oh we can’t put this off because so-and-so’s mother died.” Galbato said, “no, there is a 5 part balancing test that this Board has to consider for the variances that they are going to go through as well as the elements of a Special Use Permit. Then this Board is going to

contemplate what conditions, if any, to put on – either the variances of the Special Use Permit.” Pidhirny asked, “is this not the purpose of this meeting?” Galbato said, “in part, of course. This was the first time this Board heard from the operator and the architect on the project.” Pidhirny asked, “so the normal procedure would then be go and discuss the Special Use Permit and other things and have another meeting to decide on this?” The Chairman said, “correct. This is the standard operating procedure on any big project.” Member Phinney said, “other than porches and decks.”

Ramsgard asked, “is there any reason why we can not go onto the Village Board and due Critical Impact?” Battle said, “I believe Mike Byrne does not want the Trustees to handle anything until anything until the Zoning Board is through.” Galbato said, “his Board, the Board of Trustees to be the last approval in the process.” The Chairman said, “they are the elected officials.”

Ramsgard said, “I am only pushing for practical reasons. The idea is to get this construction done and reopen in 2011. Every time we miss a month, it puts even more pressure in trying to get everything complete.” The Chairman said, “the reality is Andy, even if it hadn’t been for the confusion about the 2 meetings, we were never going to vote on this tonight. So, we were always going to be on a schedule that we would make a decision as a Board at the end of January.” Ramsgard said, “I’m respectfully requesting if there’s no comment that comes in by next week, that if you could, as a Board, come to a decision before the end of January so that we could begin to – we still probably have a whole other 2 meetings at the Village Board that’s also a public hearing to go through. So, if there’s a long period of time – there’s nothing we can really do in January until after your Board has made their decision, is what I’m trying to say. If there were people that came in ...”

Battle asked, “have you done your asbestos report?” Ramsgard said, “no.” Battle asked, “on the other buildings also?” Ramsgard said, “no.” Battle said, “get that going. There’s other stuff that you can do.” Galbato said, “I think the February meeting would be the 14th. It’s the second Monday – for the Trustees.” Battle said, “they would meet on the 14th provided Patty Couch gets the notice in to the paper in time. That would be their first meeting in February – Valentine’s Day.” Galbato said, “I would assume that there’s plenty of time for the public hearing notice to go in, if this Board approves the Special Use Permit and variances on January 25th. That gives the remaining portion of that week and the following. There would be 2 full weeks in February before that 14th meeting.

Steencken asked, “will there still opportunity for other property owners to make comment? Will there be another meeting?” The Chairman said, “part of the problem was there was some confusion about what tonight’s meeting was going to entail. We scheduled the meeting and it looked like Andy could not be here. So, we scheduled a second time that Mr. Robinson was going to come in here tonight and educate us a little bit about the restaurant operation. Then people could come and hear the presentation next week. But we did it all tonight.”

Steencken said, “a lot of people were misinformed. They were under the impression that...” “...some may have been,” said Member Phinney. The Chairman said, “the reason we don’t want to close it now is that there might be a neighbor who was thinking that there was

another meeting that they were going to be coming to. So, we don't want to close the public hearing for that. But, there's no reason that we can't keep it open, hear comments – with what we've seen from the Planning Board minutes, the process of this, the comments tonight for and against – I would be hard pressed to think of a comment that would sway us to the point that we could not make a decision, after closing the public hearing at the end of January. So, I don't anticipate that – what I do anticipate is we would have the meeting. If there are more comments, there are more comments and we would still be able to render a decision that night. Obviously, I can't guarantee that that something bizarre could come up. We have a lot of bizarre things in this that have been proposed as eventualities that could happen, or might happen. But the reality is, it can be settled by the end of the meeting next month. I think that's where we stand.”

The Chairman said, **“I move that we continue the public hearing until our January 25th (2011) meeting.”**

Seconded by Member Pardee. The vote was 5-0 in favor of the motion.

The meeting closed at 8:56pm.

email: ZBA, Ramsford, Galbato