

**MINUTES OF REGULAR MEETING OF THE PLANNING BOARD OF THE
VILLAGE OF BRONXVILLE HELD ON OCTOBER 9, 2013 AT THE VILLAGE
HALL, 200 PONDFIELD ROAD, BRONXVILLE, N.Y.**

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PRESENT:	Eric Blessing	Chairman
	Anna Longobardo	Vice Chair
	Adrienne Smith	Member
	James Murray	Member
	Gary Reetz	Member
	Randolph Mayer	Alternate
	Rene Atayan	Alternate
	Vincent Pici	Superintendent of Buildings

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Chairman Blessing called to order the regular meeting at 7:32PM.

APPROVAL OF MINUTES

On motion of Ms. Smith, second by Mr. Murray, the Board approved the minutes of the Regular Meeting on September 11, 2013.

SITE DEVELOPMENT – J.C. FOGARTY’S – 60 KRAFT AVENUE (2ND FLOOR ADDITION)

Mr. Robert Davis, attorney for applicant, said that the applicant was here to give an update to the Planning Board since the September meeting and hopes to conclude the process. In September, the traffic consultant reported there was enough parking. On September 22nd, the Village sound consultant rendered their final report and said that the noise would not adversely affect any residents in the area in any way. There are no visual impacts. The photometric lighting plan was submitted and it was found that there is no perceptible lighting issues found after 11PM. On September 24th, the FAR variances were approved by the Zoning Board. The Zoning Board referred back the applicant to the Planning Board for a parking waiver. All experts support the parking findings and there are no significant adverse impacts.

Ms. Marilyn Timpone-Mohammed, consultant from Frederic P. Clarke Associates, commented that Mr. Davis gave an adequate summary of what has taken place in the last month. There are operating parameters in terms of noise that the applicant has agreed to. The maximum of 52 seats provided at any time will be adhered to. The indoor/outdoor dining will be used in conjunction and not separately. The outdoor dining will be closed at 11PM and will not be available before 4PM. The doors to the exterior will be kept closed at all times. There will be no music outside. The use of the premises for other uses is subject to the approval of the Village. The bar window to the deck should be closed when there is noisy activity inside. The staff will use certain doors during times of music.

Mr. Murray asked if Ms. Timpone-Mohammed was suggesting that the seven conditions referred to in the Zoning Board memo be incorporated in the Planning Board's approval.

Mr. John Colquhoun, Design Review Committee, reported that the committee had reviewed the lighting plan for the exterior area and the fixtures were acceptable and attractive. The awnings will be green which is consistent with what is used for the sidewalk dining. The committee recommends approval.

Chairman Blessing opened the public hearing at 7:46PM.

No public comment.

Chairman Blessing closed the public hearing at 7:47PM.

Mr. Davis made some points of clarification. There will be 52 seats in the interior of the building and 32 seats on the exterior of the building. The condition from the Zoning Board states that there will be no more than 52 patrons using the combined area at one time. In terms of the outdoor dining, if there is no special event inside then the outdoor dining will be used for restaurant patrons with the condition that the two areas not be used separately.

Ms. Smith asked if there would be a problem with the wait staff using one door.

Mr. Fogarty, owner, replied that there would be no problem.

Chairman Blessing commented that the outdoor dining would be used when the sidewalk dining is reduced by 10 seats.

Mr. Mayer felt the condition by the Zoning Board was poorly worded.

Ms. Atayan agreed and felt that conditions two and five needed to be re-worded.

Ms. Smith said that if there is music playing there should be a condition added to limit the hours that music may be played.

Mr. Davis replied that a special event allows 52 seats and if there is no special event then only 32 seats would be allowed outside. During a special event, the outdoor dining will not be used by anyone else. If there is no amplified music or production going on inside, the doors can be left open.

Ms. Longobardo inquired about who would be monitoring the doors.

Mr. Davis responded that it would be the user and that the concern to date has basically been with music and noise at night time.

Ms. Longobardo said it is appealing to go outside and open the doors but someone needs to monitor this.

Mr. Davis said that if people hear a lot of noise, a complaint would be made.

Ms. Longobardo asked why there are six large doors in this space.

Mr. Davis replied that the interior room is enclosed and these doors would provide lighting and make it an attractive space.

Chairman Blessing asked if these could be made panels.

Superintendent of Buildings Vincent Pici reported that he has spoken with the consultants and the applicant and that they could revise the doors and have some be fixed panels. He feels that the condition to allow the doors to be functional will never be able to be enforced. It is a fair compromise to minimize the number of operable panels.

Mr. Fogarty said that currently the restaurant has music every Friday and Saturday night and he has never received a noise complaint in 15 years. He intends to run the upstairs the same way. He would be very strict with this condition. He feels the open doors give the room a nice effect.

Ms. Longobardo responded that this is a question of enforcement. She understands the need for access for safety reasons. She feels that it is an attractive nuisance to have six doors that open. One door is sufficient for serving outside.

Mr. Fogarty feels it is a matter of beauty. Having six doors gives a lovely affect. The open doors would allow in the air – like a sidewalk café.

Mr. Davis commented that there should be no difference between the second floor dining and music and the first floor dining and music.

Chairman Blessing responded that on the first floor there is no opportunity to open the whole front onto the street.

Mr. Davis said this creates a whole new ambiance for the diner.

Mr. Mayer inquired if this could be done with windows rather than doors.

Mr. Davis asked why this was being treated differently. It will be well insulated. There will be no normal dining inside unless for a special event.

Chairman Blessing responded that enforcement is difficult.

Mr. Pici said it is much easier to build in a condition that is proactive rather than reactive. He reviewed the seating for both the interior and exterior areas. He recommended that the Planning Board either put in the condition or not.

Mr. Murray asked Mr. Pici what he would recommend to the Planning Board.

Mr. Pici answered that the applicant should reduce the number of doors for safety access and then have the others be fixed/inoperable. He recommended not to put in the condition whereby the Village has to enforce. And, quite honestly, no one knows what will be there in the future if Mr. Fogarty was to sell at some point.

Mr. Davis once again reiterated that there will be no outside music.

Mr. Fogarty commented that the outside chairs will be gone by 10PM and there will be no noise after 11PM. All parties will be done by then.

Mr. Davis said he does not see the difference between the first and second floors. In the nice weather, the patrons could have the windows open.

Mr. Pici responded that this is a provision of the Village Code and it requires all activities to be conducted within the building. There has never been another application like this one.

Mr. Davis was adamant that this was similar to sidewalk dining.

Chairman Blessing asked for a motion from the Planning Board to waive any parking conditions for the applicant.

On motion of Ms. Smith, second by Mr. Murray, the Board approved this motion.

Chairman Blessing then discussed the conditions made by the Zoning Board and if the Planning Board felt there should be additional conditions made.

Ms. Longobardo commented that the Planning Board can only comment on the conditions made by the Zoning Board and that no changes can be made to them.

Mr. Davis said the doors will be kept closed during an event but that people can open them to go outside.

Mr. Mayer said this raises the question than of why have six doors.

Mr. Davis responded that there seems to be some inconsistency here and that the bar door will be open during events.

Chairman Blessing replied that this was not an issue at all. The seven conditions of the Zoning Board will be incorporated into the Planning Board approval.

Mr. Pici said the placement of the doors needs to be looked at by the architect and this language should be vague enough in the condition.

Chairman Blessing said that the applicant needs to find out what the requirements are from the Eastchester Fire Department.

Mr. Mayer commented that the door argument should have been fought with the Zoning Board by the applicant.

Ms. Smith said there seems to be quite some confusion with regard to the seating.

Ms. Timpone-Mohammed commented that if the Planning Board has a concern, they could seek clarification by the Zoning Board.

Ms. Longobardo replied that the language is precise in the conditions.

Mr. Murray asked if there was some way that Mr. Pici could write language so that the applicant could receive approval this evening.

Mr. Pici responded that the Planning Board should recommend fixed panels. There is no language that can reverse the decision made by the Zoning Board. The Zoning Board did not want noise going outside. They do not go into the architectural intricacies.

Mr. Mayer said the Planning Board cannot undermine the Zoning Board.

Mr. Pici commented that whatever condition is the most stringent that is the one that will be enforced. He will require the doors to be fixed.

Chairman Blessing agreed that the doors need to be inoperable/fixed.

Ms. Longobardo agreed with Chairman Blessing that the Zoning Board decision needs to be incorporated into the Planning Board decision.

Chairman Blessing said the condition should read that the Planning Board is requiring fixed panels/inoperable doors and that the applicant can come back at a future date if they want this changed.

Ms. Timpone-Mohammed told the Planning Board that if they ask for fixed/inoperable doors that the condition for the wait staff door would not be necessary.

Chairman Blessing asked for a motion from the Planning Board to approve the Site Development with the condition of the number of operating doors be determined by the NYS Building Code with the remaining doors made fixed/inoperable.

On motion of Mr. Reetz, second by Ms. Longobardo, the Board approved this project.

OTHER BUSINESS

Chairman Blessing reported that there is an application for approval for two new window openings located at 7 Pondfield Road. The applicant was not in attendance. Mr.

Pici has reported that there are no environmental issues and the applicant is in compliance with the building code. The Planning Board can waive the site plan approval process.

Mr. John Colquhoun, Design Review Committee, said that the two new windows match the windows along the front of the building.

Chairman Blessing asked for a motion from the Planning Board to approve the replacement of the two windows.

On motion of Mr. Murray, second by Mr. Reetz, the Board approved this project.

NEXT MEETING

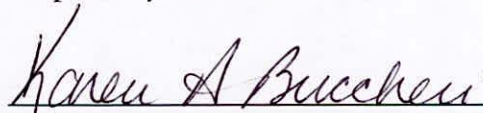
The next regularly scheduled meeting of the Planning Board will be held on Wednesday, November 13, 2013 at 7:30PM.

ADJOURNMENT

There being no further business before the Planning Board, a motion was then adopted by unanimous vote to adjourn the meeting at 8:38PM.

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Karen A. Buccheri", is written over a horizontal line.

Karen A. Buccheri

Secretary to the Mayor & Village Administrator