

**Village of Liberty Planning Board  
Regular Meeting  
April 14, 2011 7:00 p.m.**

**Present:**

Don Nichols, Chairman  
Steve Green  
John Webber  
Dan Ratner  
Carlton Fritz

**Absent:**

Langdon Chapman, Village Attorney

**Also Present:**

Pam Winters, Code Enforcement Officer  
Michael Woods, Surveyor for Jennifer Adamek  
Mitchell Houghtaling  
Mr. & Mrs. Bruce Unger



Chairman Nichols calls the meeting to order at 7:00 p.m. and leads everyone in the pledge of allegiance.

**ON A MOTION BY CARLTON FRITZ, SECONDED BY STEVE GREEN AND UNANIMOUSLY CARRIED, THE MINUTES OF THE MARCH 10, 2011 MEETING ARE APPROVED AS SUBMITTED.**

**# 03-11 JENNIFER ADAMEK LOT IMPROVEMENT  
CORNER OF LAKE & ORCHARD STREETS**

Mike Woods is present in this matter.

Mike: I'll just quickly explain this to you. The proposal before you tonight shows the Village of Liberty conveying a small parcel of vacant land on the corner of Lake and Orchard Streets to my client, Jennifer Adamek. The reason for this is to create some off-street parking for the tenants in Jennifer's apartment building. As you know, parking on Village streets during the winter is prohibited and some of the tenants have received parking tickets from the Police Department. The intent is for the tenants to park behind the existing sidewalk. We'll be creating three (3) parking spaces leaving an appropriate clear-sight triangle as you enter Orchard Street (which is a one-way street).

I overheard some of your comments before the meeting started and I fully understand your concerns. The curb will have to be coved out somehow so the cars can gain access to the parking spaces. There was one other item?

Chairman Nichols: A guardrail will need to be installed to prevent cars from going down over the bank.

Mike: That's a good idea. My client also had one more idea. She'd like to see about having a NO PARKING sign installed at an appropriate site to prevent other cars from parking in the vicinity.

Chairman Nichols: The coving of the curb and the signage are not matters to be decided by this Board. Those concerns are best handled by Peter Parks, the head of the DPW. Whatever he wants is what your client will have to do. I only have one other concern. We have no idea what base is beneath the existing sidewalk and I have no idea if it can support the weight of a vehicle. If the constant driving of cars over the sidewalk causes damage to the sidewalk, your client will have to assume the costs for it's repair.

Mike: Pam, did you get the message I left for you last week regarding merging the five (5) lots together.

Pam: Yes, I did. I e-mailed the Board members who collectively thought that merging the lots together was a good idea and I e-mailed Kathy to that effect. I didn't realize that she wanted a letter from me. The letter should actually come from the Village Board so I'll see what I can do to get to Kathy by next week.

Mike goes on to discuss the history of the five lots and why it streamlines the process of the lot improvement, drainage in the area of the sidewalk, the need of the signage previously discussed, and if 239m review is needed.

**ON A MOTION BY CARLTON FRITZ, SECONDED BY STEVE GREEN AND UNANIMOUSLY CARRIED, THE BOARD APPROVES THE JENNIFER ADAMEK LOT IMPROVEMENT WITH THE FOLLOWING CONDITIONS:**

- **THE CONVEYANCE WILL SERVE NO MORE THAN THREE (3) CARS.**
- **THE APPLICANT WILL INSTALL A GUARDRAIL THAT MEETS WITH THE APPROVAL OF THE VILLAGE DPW TO PREVENT CARS FROM TRAVELING OVER THE EMBANKMENT**
- **THE APPLICANT WILL MEET WITH THE VILLAGE DPW TO AGREE ON THE BEST WAY TO EITHER COVE OUT THE ENTRANCE OVER THE EXISTING SIDEWALK OR DO A CURB CUT OF THE WALK.**
- **SHOULD VEHICLE TRAFFIC OVER THE SIDEWALK CAUSE THE SIDEWALK TO FALL INTO DISREPAIR, THE APPLICANT AGREES TO REPAIR/REPLACE SAID SIDEWALK AS NEEDED TO AS-BUILT CONDITIONS**
- **THE RECEIPT OF A LETTER FROM THE VILLAGE BOARD ALLOWING THE ASSESSOR TO MERGE ALL FIVE (5) LOTS INTO ONE.**

**# 01-11 MIKE GROSSMAN SITE PLAN REVIEW  
92 OAK STREET  
CONTINUATION/UPDATE**

**Pam: I just want to bring everyone up do date on this matter. I prepared a full package for the Town Planning Board to review and, after doing so, the Town Planning Board e-mailed me a letter indicating that they are satisfied with the site plan review that our board did. The only thing that they ask is that Mark and I conduct annual inspections of the exterior grounds to ensure that no accumulation of junk cars or car parts occurs. (A copy of the letter is attached as a matter of record). Denise Martin Birmingham and Mike Grossman have been sent copies of the letter for their file.**

**OTHER BUSINESS:**

Carlton: I have a question about the used car place on Mill Street. What did he do, move his cars across the street?

Pam: Yea. I called Jeff Miller and yelled at him to move them. Jeff immediately called Raj and yelled at him. The end result being that they have 48 hours to remove the more than dozen cars illegally parked there or face a \$1,000 a day fine in court. Jeff seemed to have forgotten about his agreement with the Village to not park any cars there (to protect the Village well-head) and the reason land on Willow Lane was bartered. I don't foresee any problem in getting the cars removed. I also explained this to Ken Hessinger this morning because he came to me concerned about the sudden appearance of cars on this lot.

**NEW BUSINESS**

Pam: I've asked these people to come to tonight's meeting in order to better clarify questions regarding their businesses. They each have questions regarding the outdoor sale of merchandise and/or the establishment of a flea market in the Village. Mr. and Mrs. Bruce Unger own the appliance repair business adjacent to BOCES on State Street with a few storage units on site. They're considering displaying some of their merchandise, such as appliances and the like, outside but would also like to have indoor auctions at their location. Before, this location was simply retail sales but an auction could have an impact on parking in the area.

Mitchell Houghtaling is here because he wants to hold an outdoor flea market in the parking lot at Albert's Liberty House. His father, Ray Houghtaling, has sold Christmas trees and similar seasonal goods at this location for nearly fifty (50) years and I consider that to be a pre-existing, non-conforming use. The flea market is a new use so should have planning board approval, again, because of the impact of parking.

Mitchell Houghtaling: I'd like to have a flea market in during the summer and fall months in the parking area at Albert's Liberty House on Triangle Road. I want to know what I have to do to make this happen.

Pam: When the Village promotes a sidewalk sale, businesses can sell their merchandise outside, but only the merchandise that's offered within their store, and they're not permitted to sell outside every day or every weekend. Albert sells food but Mitchell wants to sell a product other than food. And in the zoning, you have to look at the definitions closely. A yard sale [Section 87-41A] is a "residential" sale of items, which can be held no more than five (5) times per year for no more than three (3) days at a time. This new definition was included in our zoning by Tom Shepstone to help me deal with those people who drag out all of their stuff for sale and leave it outside for weeks on end. It looks horrible and takes away from the character of the neighborhood.

These places are businesses, which are governed by Section 87-41B. Their restrictions are the opposite. They can have no more than three (3) sales per year for no more than five (5) days at a time. This allows them to take advantage of holidays like Memorial Day, the 4<sup>th</sup> of July and Labor Day weekends.

A flea market held on a periodic basis is allowed but Mitchell wants to have his flea market for at least six months out of the year, every year. I consider this to be a permanent thing, so I told him it was over what I could approve and he would require your approval. Mitch, explain to them what your plans are.

Mitchell: I just really want to sell on weekends. There's more than enough room. The dentist's office is closed on the weekends so I won't interfere with that business. Albert doesn't see where it would affect his business; I have his support. I have room for about thirty (30) vendors. I'll put up signs directly people where to park.

Chairman Nichols: We're going to need a site plan showing all of this.

Pam: So you're going to want a formal application, right?

Chairman Nichols: Yes. We need to know what, where, when...

Mitchell: No problem.

Pam: Mr. Unger, could you explain just what you'd like to do? Your wife said she'd like to sell items outside as well, but sell other items than simply appliances.

Mr. Unger: I'm in the refrigeration sales and service business. When I purchase items, it's usually in bulk. I buy out the contents of other businesses or hotels. I sometimes have a tremendous amount of inventory. I don't really care so much about selling items outside. What I want to do is be able to have auctions inside. I'm licensed to do so in the city but unsure if I can do the same thing up here. I want to be compliant so I want to know what to do.

Pam: You'll be primarily auctioning inside?

Mr. Unger: Yes. I understand from listening to your prior conversation that I can sell some items outside five times a year.

Chairman Nichols: I think it's within our purview to see how much room you have to work with and how you'll be able to accommodate extra parking generated by an auction.

Pam: Then I have a problem. Al Knight on Oberferst Street has been having auctions since they purchased the building two years ago. I've never required anything of them because auctioning items off is no different than the business they conduct on a daily basis. There's no specific definition in our zoning for "auction houses" so I lumped all retail sales into one. Now I need to go back to them and say, "you need a special use permit to hold auctions?" We need to be consistent with all of these people and keep everyone on the same page. And these same people held auctions next door to Mr. Unger's when they rented that building with no special use permit because I considered the sales to be retail.

Several conversations are going on at the same time here. Mr. Unger discusses his business, the problems his father had while he was here, the O&W Railroad relative to his building, who may have done his father's survey, and more. Mitchell comments on selling outside at this father store on Wierk Avenue. The nature of Gabby's business (Lost & Found Treasures) is discussed.

The end result of the conversation is while the Unger's may not have to file a formal site plan to have an auction, the board is still interested in seeing what type of parking arrangements he has. Mr. Unger is also willing to remove all of the storage units currently on the site to make room for additional parking.

Regarding Mitchell's application, Mitchell will submit his application for review at next month's meeting. Since he won't have final approval until after Memorial Day weekend, he'll take advantage of Section 87-41B to hold up to three (3) outdoor sales until he receives final approval.

Chairman Nichols: We need to look into adding a definition of auction and/or auction house with some clear-cut guidelines for everyone to follow.

**ON MOTION BY DAN RATNER, SECONDED BY CARTON FRITZ AND UNANIMOUSLY CARRIED, THE MEETING IS ADJOURNED AT 7:50 P.M.**

Respectfully submitted,

Pam Winters, Clerk  
4/28/11

Date Approved: