

A regular meeting of the Board of Trustees of the Village of Cooperstown was held at the Village Office Building, 22 Main Street, Cooperstown, New York on June 29, 2015 at 4:00 p.m. Members in attendance were Mayor Jeff Katz, Trustees Ellen Tillapaugh, Cynthia Falk, James Dean, Bruce Maxson, Joan Nicols and Louis W. Allstadt. Also in attendance were DPW Superintendent Brian Clancy, Zoning Enforcement Officer Tavis Austin, Village Attorney Martin Tillapaugh and Village Clerk – Teri Barown. There were twenty-three (23) members of the public present.

Mayor Katz called the meeting to order at 4:00 p.m. and led the pledge of allegiance and then read the guidelines for public comment. Mayor Katz stated he would open the meeting for public comment immediately following a review of relevant information by the Village Attorney, Martin Tillapaugh, to this afternoon's public hearing for the special use permit application submitted for consideration of hotel status for 124 Main Street. The Clerk read the public hearing notice.

Mr. Tillapaugh began by reviewing the purpose of the public hearing to be held today for consideration of a special use permit for a four story hotel pursuant to the application submitted. He also reviewed various permits that would be required not only for the special use but also of the various zoning boards.

He stated that the Trustees could only make their decision regarding a special use permit for the four story hotel as this was the application that was submitted. He stated that the Zoning Board of Appeals has already considered several variances primarily dealing with height and structures to be placed on the roof of the proposed hotel. He said that the Zoning Board of Appeals voted to deny the variances, and as a result the height could not exceed the allowed 42 feet. He said that as a result of this denial it is his opinion the applicant's proposal cannot proceed as submitted. He stated that as the Board of Trustees had already started the process and advertised the public hearing for a special permit, it was felt that this needed to proceed to allow for public comment.

Mr. Tillapaugh stated that over the past week several phone calls have transpired the first of which was regarding the question whether the Trustee's public hearing for a special use permit could proceed due to the ZBA decision. He stated that it is his opinion that unless the application was withdrawn or amended that the public hearing should proceed.

He stated that he had several conversations with the applicant's architect regarding amending the special use permit application for a three story height and that for several days it looked as though this would occur. He stated that this also generated several discussions regarding whether an amended application would require a need to re-do SEQRA. He stated that it quickly became apparent there would be a need to conduct an amended SEQRA review to look at items such as visual impact and parking. He said for a time it was felt that the public hearing being held today would be adjourned and that the meeting time would be used to review an amended SEQRA.

He said that this past Friday he was informed by the architect that the partners had decided not to amend the application and that we are here today to review the original application as submitted for a 4 story hotel.

Mr. Tillapaugh stated that as the Zoning Board of Appeals has determined that there will be no height variances provided, he feels that we can't go anywhere today in approving a special use permit for the original application without conflicting with their decision. He said we will however be proceeding with the public hearing and hear any comments regarding the original application.

He stated that he has opined that in his legal opinion the only legal vote that can occur by the Trustees due to the denial of the height variances is a no vote and he has made that clear to the

Trustees and the applicant, Mr. Lagan. Mr. Tillapaugh said that given the vote by the Zoning Board of Appeals to deny the height variances he feels that the Trustees cannot vote to give the special permit on the application that was submitted.

He said that additionally a question came about regarding whether the proposed dining area, bar, pool and fire pit proposed for the roof of the dwelling would be in the purview of this Board when considering a special use permit. He stated that he feels that they clearly would be in this Board's purview when considering the special use permit as they would be a use. He stated that some have argued that they would not, but he strongly believes that as they are a use of this particular site they would be able to be considered under the special use permit.

Mr. Tillapaugh also noted for those present the distinction between the Zoning Board of Appeals and the Board of Trustees. He stated that the members of the Zoning Board of Appeals are appointed by the Mayor and Board of Trustees, but that the ZBA has the final decision on matters related to zoning that come under the purview of their board. They are a separate entity and are not controlled by the Trustees.

Mayor Katz reviewed again the guidelines for public comment and opened the meeting to public comment.

Joan Clark, 90 Main Street, asked if the Trustees voted no would this be the end of it.

Mayor Katz stated as far as this application is concerned yes, however, it doesn't mean that future applications can't be considered.

Ms. Clark stated that the law states that there are no hotels on Main Street.

Mayor Katz stated that hotels can exist on Main Street if they receive a special use permit.

Ms. Clark asked if the Trustees could have just said no to the application when they received it.

Mayor Katz stated that would have made the process suspect and that the Trustees needed to have information from the other boards so as to not act in a void.

Ms. Clark stated that the Trustees could have just said no.

Dr. Falk stated that the Village Zoning Law regarding special use permits requires that the applications be forwarded to the Planning Board for review and recommendation back to the Trustees.

Roger MacMillan, 12 Main Street and HPARB representative, asked if this ends the process for HPARB as well.

Mayor Katz stated that yes but only for this particular application.

Connie Haney, Cooperstown Bat Company, ask the Trustees to consider the easements in the deed for her property and restrictions resulting from the same before acting on any special use permit for 124 Main Street.

John Rudy, 54 Chestnut Street, asked assuming another application is submitted, could one condition be that the special use permit will be in effect as long as the hotel is revenue generating and a tax paying entity to the Village.

Mr. Tillapaugh stated he felt that condition would be beyond the power granted to the Village Board by the State.

Bill Waller, 66 Beaver Street, stated that if the application cannot receive a positive vote due to the decision of the ZBA, he would question the wisdom of voting one way or the other.

Mr. Tillapaugh stated that if the Board declines to vote within 62 days of the public hearing by virtue of state law the application would be approved. He stated therefore doing nothing is doing something.

Ellen Pope, 28 Elm Street, Executive Director of Otsego 2000, stated that this is a strange public hearing to comment on. She said she would like to see something on Main Street in this location that will contribute to economic development. She said she feels the building proposed was overbuilt for this site and needs to conform better to the historic district.

Milo Stewart, 15 Church Street, thanked Mr. Tillapaugh for the clarification at the start of the meeting. He stated he doesn't feel that the building proposed would conform to the historic district.

Bernard Viek, 19 Fair Street, stated he would echo the comments made regarding the historic district. He stated that historic charm is a huge asset to Cooperstown and part of what brings people to the Village.

Connie Haney, Cooperstown Bat Company, stated that visitors perceive Cooperstown as a small town with a small town feel. She said you can't just find that anywhere and she hears this directly from the people coming into the Village.

Hearing no further public comment, Mayor Katz closed the public hearing at 4:29 p.m. for the special use permit application as submitted for 124 Main Street for a 4 story hotel and asked if there were any discussion from the Trustees.

Ms. Tillapaugh stated she felt it was unfortunate that an amended application was not submitted. She said that in reference to Mrs. Clark's comments by law any application received for a special use permit must go to the Planning Board first and she feels that just denying something without providing an appropriate review and gathering as much information as possible is acting in a vacuum. She stated that this Board always tries to gather as much information as possible before making decisions.

She stated that regarding this application if everything would have been within the allowable parameters that it could have been a viable format for Main Street. She said she is disappointed that they didn't choose to revise the application and that she would not have been happy with the original plan due to the height and parking plan. She said she did want to hear from all Boards involved before weighing in.

Dr. Falk stated that she echoes the comments made by Ms. Tillapaugh. She stated that she feels this Board is charged with complete review of an application submitted prior to making any determination including pedestrian and vehicle traffic, height and location, fiscal burdens. She stated that she feels the application as provided is not viable.

Mr. Dean stated that he joins Ms. Tillapaugh and Dr. Falk in their comments for the same reasons.

Mr. Maxson stated he would not be able to vote for the application for the same reasons as already stated.

Mrs. Nicols stated that she understands that historically there have been hotels on Main Street; however she cannot support the application as submitted particularly due to the denial of the height variances by the ZBA.

Mr. Allstadt stated that when the original informal meeting was held regarding the project with representatives from the various boards and the partners the discussion was for a three story hotel. He stated that he felt it would fit the scale of the Village and be a good economic driver. He stated, however, that the application that was submitted he feels is out of scale and the design is not consistent with the Village.

Mayor Katz stated there is a process to follow and that this Board tries very hard not to be arbitrary. He stated this is a focus for the Trustees and they hear public comment all the time and take it to heart. He stated one perception that we have tried hard to change is the feeling that the Trustees are going to say no so don't bother asking. He stated that seeing continued growth on the Route 28 corridor is not helping us.

Mayor Katz stated he was encouraged to see the application for a Main Street hotel and that it was a thorough process. He stated that how a proposal looks when it starts can certainly change during the process the application goes through under the law. This is how the process evolves through all the Boards. He said despite the voices of other Boards, the Board of Trustees could have made further mitigations.

He said that he feels that the worst thing that could come from this is that the Village is against business, investment and economic development. He said proof of the opposite can be found in the Village adopting an outdoor dining law. He said this didn't come as a proposal from the merchants but rather as a vision from the Trustees. He stated that he believes this law has gone a long way in revitalizing Main Street.

He stated that he hopes there will be application for a hotel, whether from the same applicant or a different one that meets the criteria to obtain approval. He stated that in the long term it is not healthy to not have economic development within the Village and forcing business to move outside the Village.

Mayor Katz made a motion to approve the special use application as submitted for a 4 story hotel at 124 Main Street. Dr. Falk seconded the motion and a vote had the following results:

AYES: None NOES: Tillapaugh, Falk, Dean, Maxson, Nicols, Allstadt Motion failed.

Mr. Allstadt made a motion to adjourn to executive session at 4:40 p.m. to discuss the work history of particular individuals. Mrs. Nicols seconded the motion and a vote had the following results:

AYES: Tillapaugh, Falk, Dean, Maxson, Nicols, Allstadt Motion carried.

Mr. Maxson made a motion to return to regular session at 5:30 p.m. and adjourn the meeting. Mrs. Nicols seconded the motion and a vote had the following results:

AYES: Tillapaugh, Falk, Dean, Maxson, Nicols, Allstadt

Motion carried

Respectfully submitted,

Teri L. Barown, RMC  
Village Clerk  
Village of Cooperstown