

**VILLAGE OF EAST AURORA
VILLAGE BOARD MEETING
May 18, 2020 –7:00 PM**

Present:

Trustee Lazickas
Trustee Kimmel-Hurt
Trustee Cameron
Trustee Porter
Trustee Schoeneman
Trustee Scheer
Mayor Mercurio

Also Present:

Shane Krieger, Chief of Police
Maureen Jerackas, Clerk-Treasurer
Robert Pierce, Village Attorney
Cathie Thomas, Village Administrator
Matthew Hoeh, Superintendent of Public Works
William Kramer, Building Inspector
Jessica Taneff- Deputy Clerk
0 Members of the public

A Motion by Trustee Porter to approve the Village Board minutes of May 4, 2020, seconded by Trustee Kimmel-Hurt and carried with unanimous approval.

Trustee Schoeneman moved to approve the Payment of Abstract(s) for:

Voucher Nos. Nos. 59741 through 59779 for a total of \$45,467.71
Seconded by Trustee Kimmel-Hurt and unanimously carried.

PUBLIC HEARINGS-CONTINUED

- A Motion by Trustee Lazickas to open a public hearing at 7:07PM for a Request for a revised Site Plan Approval for The Bank at 649 Main Street, was seconded by Trustee Schoeneman and carried with unanimous approval.
 - The Clerk Treasurer read a letter from Susan Steinwachs, who believes an elevator is still necessary to have in this building. **
 - Peter Sorgi- 5500 Main St. Attorney for The Bank- Mr. Sorgi told the Board he has contacted two other people with experience on this matter and they both have said not having an elevator is compliant with the law. The Bank will no longer be having the rooftop as a floor. Mr. Sorgi listed other restaurants around the Village that have two floors with no elevator. Trustee Porter responded to Peter Sorgi and said the examples he gave are not the

same situation as The Bank because The Bank has three floors not two. The Mayor spoke of The Bank's new plans with all the ADA guidelines.

On a Motion by Trustee Kimmel-Hurt to close the public hearing at 7:16PM, was seconded by Trustee Schoeneman and carried with unanimous approval.

- A Motion by Trustee Kimmel-Hurt to open a public hearing at 7:17 PM, for Consideration of a Local Law to amend Chapter 180 of Village Code, Peddlers and Solicitors, to add a section with regulations specific to mobile food vendors, aka food trucks, was seconded by Trustee Lazickas and carried with unanimous approval.
 - Trustee Porter would like to allow Food Trucks in Hamlin Park. The Clerk Treasurer read the email from Ashley Howee **
Mitchell Stenger -69 Delaware Ave., Attorney for Lloyd's Taco Truck- Mr. Stenger spoke to the prior Peddler and Permit and the halt of this permit when CoVid-19 started. Mr. Stenger said he believes Food Trucks are an essential business during this pandemic and should be allowed to operate. He would like to see this amendment to the code move along so the food truck can apply and get back into business. Trustee Porter asked what Hamlin Park was zoned at and CEO Kramer responded this was under open space. Trustee Porter made a recommendation to amend the code to allow food trucks to sell in Hamlin Park for a maximum of two hours. The Administrator and CEO Kramer discussed what open spaces entails. Trustee Kimmel-Hurt referred to Section 180(25)-private events falls into operating within a residential zone. She also asked about Food Trucks operating in Fireman's Field. The Administrator said this field is operated by the Fire Department. Trustee Kimmel-Hurt then referred to Section 180-30(F)- for trash receptacles. She mentioned it might be a good idea to add the requirement for a recycling bin in addition to a garbage bin. CEO Kramer added that he would like to see all violation penalties be consistent.

On a Motion by Trustee Schoeneman to close the public hearing at 7:29PM, was seconded by Trustee Cameron and carried with unanimous approval.

- A Motion by Trustee Porter to open a public hearing at 7:41PM, for Consideration of the Village Annual MS4 Storm Water Management Report, was seconded by Trustee Lazickas and carried with unanimous approval.

On a Motion by Trustee Kimmel-Hurt to close the public hearing at 7:42PM, was seconded by Trustee Cameron and carried with unanimous approval.

OFFICIAL CONSIDERATIONS

- **RESOLUTION OF THE VILLAGE OF EAST AURORA APPROVING THE REVISED DEVELOPMENT PLAN REGARDING RENOVATIONS AND IMPROVEMENTS FOR PROPERTY KNOWN AS THE BANK AT 649 MAIN STREET IN THE VILLAGE OF EAST AURORA**

A Motion by Trustee Kimmel-Hurt,

A WHEREAS, an application has been submitted for a proposed revised development plan at the above referenced property by Todd Stine, as agent for East Aurora Holdings, LLC (hereinafter referred to as the Applicant), and

WHEREAS, the Planning Commission of the Village of East Aurora, having considered the application, has submitted a recommendation for approval to the Village Board, with any stated conditions to that recommendation; and

WHEREAS, the Village Board held a public hearing and meetings, all of which were properly noticed to the public, and reviewed and considered the comments and all written materials submitted by the applicant, any and all public comments and submissions, and all other information and recommendations before the Board; including minutes of prior Village Board meetings, and minutes of the Village Planning Commission where the revised development plan was discussed, along with recommendations of approval by Planning Commission; and

WHEREAS, the Village Board received and considered the application for a Revised Development Plan with regards to the above referenced renovations and improvements for the use of property known as 649 Main Street, "The Bank" project.

NOW, THEREFORE, BE IT RESOLVED, by the East Aurora Village Board the following:

1. The recommendations of the Planning Commission, the revised development plan, including the above referenced improvement renderings filed with the Village comprised of drawings by architect Heather M. Nemec, Drawing Nos. A-1, A-2 and A-3, all dated December 2, 2018, with revision dates of January 28, 2020 and Drawing No. A-4 dated May, 2018, with a revision date of January 28, 2020 and Drawing No. A-5 dated October 30, 2018, with a revision date of January 28, 2020, Drawing No. A-6 dated October 30, 2018, and all information included in the minutes taken in relation to the above mentioned Village Board meetings are attached hereto and incorporated herein by reference.

2. Approval is granted for the Revised Development Plan Application for renovations and improvements to 649 Main Street, known as "The Bank" in the Village of East Aurora subject to the following conditions being met by the Applicant:

- a. That the applicant shall be solely responsible to comply with ADA standards and regulations.
- b. The applicant shall provide that should any future determination by the DOJ result in any orders that mandate changes to The Bank development in order to comply with ADA standards, rules and/or regulations, that the applicant shall be fully and solely-responsible for complying with such orders, directives, and/or determinations. Same shall apply to the applicant, any heirs, partners, transferees, lessees, grantees, tenants, subsidiaries, successors, and assigns.

3. To the extent not modified above, should any part of the application and Revised Development Plan approval be in conflict with any segment of the underlying Village Code (e.g., Zoning, etc.), the terms of the Village Code provisions shall take precedence. Further, the applicant is responsible to ensure compliance with all Federal, State and County laws applicable to this development.

4. The Village shall have the right to periodically inspect the property for compliance with the Village Code, the Revised Development Plan, and its conditions.

5. The nature, duration, and intensity of the operations which are involved in, or conducted in connection with, this Revised Development Plan shall not be increased or expanded without the prior approval of the Village Board in accordance with any procedures which may be adopted.

6. This Revised Development Plan approval shall expire if meaningful construction, as determined solely by the Village Board after a reasonable opportunity to be heard has been granted, has not been commenced within one (1) year of the date of this resolution, and has not been completed within two (2) years of the date of this resolution or, if no construction is involved, the use has not been commenced within one (1) year of the date of this resolution.

7. This Revised Development Plan approval shall expire if the use, once begun, ceases operation, for any reason, for more than six (6) consecutive months.

8. This Revised Development Plan approval may be revoked by the Village Board if it is determined that there has been a material failure of compliance with any one of the terms, conditions, limitations or requirements imposed by the approved Revised Development Plan. Revocation may also occur in the event of Village or other Code violations occurring at the property. The Village Board shall hold a public hearing within thirty (30) calendar days after written notice has been served upon the Applicant to consider whether or not the Applicant has violated the terms and conditions of the Revised Development Plan or if any Village Code violations have occurred. Notice of the violations and of the date, place, and time of the public hearing shall be mailed to the Applicant by certified mail, return receipt requested, directed to the last known address of the Applicant. Failure to accept the notice shall not excuse the Applicant from complying with any directives from the Village nor delay the public hearing.

The following resolution was made by Trustee Schoeneman and carried with unanimous approval.

- Attorney Robert Pierce said the resolution has to be consistent with ADA rules.
- A Motion by Trustee Kimmel-Hurt, to table a Local Law to amend Chapter 180 of Village Code, Peddlers and Solicitors, to add a section with regulations specific to mobile food vendors, aka food trucks until June 1st, seconded by Trustee Lazickas and carried with unanimous approval.
 - The Administrator said she would look into fines being consistent. The Administrator also spoke to the code about private parties operating in a residential zone.
- A Motion by Trustee Cameron, to Approve the Mayor to sign the Village Annual MS4 Storm Water Management Report, seconded by Trustee Scheer and carried with unanimous approval.
- A Motion by Trustee Porter, to Set a Public Hearing on June 15th for a Permit Application for Keeping Other Than Household Pets, for Shaun and Kelly Canaski at 789 Warren Drive to keep chickens on the property, seconded by Trustee Kimmel-Hurt and carried with unanimous approval.
 - The Clerk Treasurer will find out how many chickens the applicants are looking to keep.
- A request from the Tree Board for modification of the Village's Tree Maintenance Policy has been tabled to June 1st.
 - The Administrator reviewed the Tree Modifications and she spoke with the Superintendent how they are making improvements on how they are tracking tree work. The Mayor asked the Superintendent if they could send the Administrator an updated list every month on what has been worked

on and what is still on the list to be done when they have the manpower to complete jobs. The DPW Clerk will also note on the list which projects are not deemed hazard.

- A Motion by Trustee Schoeneman, to Approve an Agreement with Robert Pierce, Esq. to serve as Village Attorney as an independent contractor, and to approve the Mayor's Appointment of Christopher Trapp as Deputy Village Attorney, seconded by Trustee Cameron and carried with unanimous approval.
- **RESOLUTION**
A Motion by Trustee Kimmel-Hurt

I, Mayor Peter M. Mercurio, here by appoint Cathryn C. Thomas as Affirmative Action Officer for a one-year term ending April 5, 2021.

Roll call vote:

Trustee Lazickas: aye

Trustee Kimmel-Hurt: aye

Trustee Cameron: aye

Trustee Schoeneman: aye

Trustee Porter: aye

Trustee Scheer: aye

Mayor Mercurio: aye

Was seconded by Trustee Scheer and carried with unanimous approval.

- A Motion by Trustee Porter, to Table to Award the Contract for installation of a new phone system, seconded by Trustee Cameron and carried with unanimous approval.
 - Trustee Lazickas referred to his previous email and would like to vet further about switching phone services. Trustee Lazickas wanted to make sure the new phone system has a call center that takes 24/7 phone calls and will speak to us on the phone. He asked the Clerk Treasurer about proprietary equipment and asked if it could be used with other vendors. The Clerk treasurer would look into this. The Clerk Treasurer said our IT guy, Nick, liked both vendor choices but noted that Vaspian would cost \$9,000-\$10,000 to be paid off over a 5yr period. The Clerk-Treasurer noted she hopes the Board picks the same vendor as the Town, so we are operating under the same system.

- **AWARD WEBSITE**

Trustee Schoeneman, offered the following resolution and moved for its adoption:

BE IT RESOLVED, that upon the recommendation of the Village Administrator, and Clerk-Treasurer as the best value, the Website RFP from the opening May 12, 2020 for Village Website creation and maintenance shall be awarded to:

WNY Networks
980 West maple Court Suite C
Elma, NY 14059

The following resolution was seconded by Trustee Scheer, and unanimously approved.

DEPARTMENT HEAD AND TRUSTEE REPORTS

- DPW- The Superintendent said they are back to full staff and are getting caught up with spring tasks.
- Police Chief- Chief Krieger said they found out Friday they were awarded with a \$10,000 Grant for booking equipment. He thanked the Clerk-Treasurer for helping with that. Chief Krieger also commented and thanked WKBW for speaking with him to fix their correction on what they published last week about social distancing.
- Oakwood Coordinator- Tim Stroth read the list of Oakwood Updates: · Roadway excavation from Hamburg to Center Streets is substantially complete, with the final 100 feet to be completed this week. · Road subbase installation on those blocks is ongoing along with remaining underground drainage, including isolated catch basins, pipe crossings and underdrain. · Concrete curb installation is scheduled to begin this week to be followed by completion of road subbase stone. · The anticipated schedule for work between Center Street and Park Place is being confirmed this week and continued road excavation is expected by the end of the week. · Public outreach and resident notification efforts are ongoing. We've received positive feedback from residents and businesses. · Efforts to maintain the worksite and install required traffic control devices are ongoing. This will be a work in progress until the project is complete. · We're working with the Engineer daily to implement contract safety requirements. · It's an ongoing challenge to progress the work, maintain the road for residents and coordinate various resident needs. Just last week we coordinated a large delivery and moving vans in the middle of the digging. We had another delivery this morning and a concrete pour at a residence tomorrow.
- Code- Code Enforcement Officer Kramer said phase 1 starts tomorrow which means construction can start back up. He said they have a lot of projects being started.
- Administrator- The Administrator said she spoke with the County Executive about phase 1 starting and what this entails. All businesses must have a plan on how they will re-open and comply with the safety guidelines. If a business is running and doesn't have a business plan submitted, they will be shut down.
- Clerk-Treasurer- The Clerk-Treasurer said she has been working on Bids.
- Trustee Lazickas – Trustee Lazickas spoke about comments from some resident's concern with the lighting being too bright on Main St. The residents asked if there would be any way to block some of the brightness on Fillmore. The Administrator asked the Superintendent if there were shields available and their expense. The Superintendent replied the cost was \$300-\$500 per shield. The Mayor asked the Administrator to ask NYSEG for a price for shielding 3 to 5 lights. Trustee Lazickas spoke of the Chiropractic building at 121 Elm Street and commented that the parking lot is limited with parking and there are cars overflowing into the street. He asked if there is a possibility to have yellow striping put in to prevent people from parking right in front of the building. The Chief said he would take a look at this.
- Trustee Kimmel Hurt – Trustee Kimmel-Hurt commented on the major traffic that occurred Friday or Saturday night due to food take-out. The Chief responded and said he had heard of the jam and they had received some complaints about it.
- Trustee Cameron – None

- Trustee Porter- Trustee Porter referred to the Local Zoning Code and asked about making the Code more stringent than the ADA.
- Trustee Schoeneman- None
- Trustee Scheer- Trustee Scheer said things looked good on Oakwood and thanked Tim Stroth for all his work.
- Mayor Mercurio- The Mayor spoke about the meetings he's attended. The one meeting was with the Association of Governments with Tom Reed and they spoke how they are working in Washington to make things happen. The Mayor also had a conversation with Kathy Hochul and now they will have phase 1 proceed. The Mayor told residents to enjoy the upcoming warm weather but to move forward cautiously. The Mayor said 7,000 masks were going to be distributed and people could pick up masks at the Senior Center or at Dispatch. Martha from the Town would be delivering the masks this evening. The Mayor gave props to a few parents of HS Seniors with displaying blue lawn signs and they also made a distribution to HS Senior households.

ADJOURNMENT

A Motion was made by Trustee Cameron to adjourn the meeting at 8:50PM. Seconded by Trustee Schoeneman and unanimously carried.

Respectfully submitted,

Jessica Taneff
Village Deputy Clerk

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Dear Members of the Village Board,

After reviewing the proposed revisions to The Bank event center, I still feel including an elevator in the plans would be the 'right' thing to do. I put myself in my mother's place because I know her so well and know how she would respond if she were, say, at a family wedding at The Bank under the current revised proposal as I understand it. My mother lived for 50 years on Girard Ave. before having to go into a nursing facility three years ago after a serious fall required her reliance on a motorized wheelchair; her "Maserati" as she calls it. She is an incredibly social and happy 93 year-old who likes nothing better than a party. The elements that I see which still concern me: 1.) only one bathroom on ground level, albeit h/c, that would be a challenge for my mother if there would be any considerable wait. There wouldn't be any option to take her downstairs and assist her in a non-h/c restroom 2.) I did question when I called into the last Board meeting what 'overflow seating' on the upper level meant. If it means that people at the same event could be seated on separate floors, I know my mother would be upset that she didn't have full access to her entire large family that she'd been waiting eagerly for probably a year or more to see.

3.) I think it's unfortunate that there won't be any access to room accommodations on the lower level which could accommodate all individuals, especially for an event like a wedding. Every family wedding I've attended, the grandparents, as matriarchs and patriarchs of the family, have been given a special place of honor in the events and always stayed overnight with the immediate family of the bride/groom. These grandparents or older family members are typically in their 70's-90's and stairs, more frequently than not, are a challenge. I think the developer is being shortsighted by providing seemingly minimum accommodations across the board; restrooms, seating, and hotel rooms for many seniors and all individuals with a physical disability/limitation that would preclude the safe use of stairs. Singling out those individuals for unequal access still looks like discrimination. Like the old saying goes "If it quacks like a duck..." regardless if it manages to meet the requirements of the law.

Sue Steinwachs

925 Luther Rd.

May 18, 2020

Hello Maureen

Thank you again for including my comment.

We Ashley and Darryl Howe owners of Aurora Brew Works, East Aurora business established in 2012 at 191 Main Street as well as East Aurora residents at 242 Oakwood Avenue want to issue our support of reasonable food truck regulations to allow food trucks to operation in town. We believe that allowing food trucks adds to the beauty of our hometown and would like to see them continue into the future.

Thank you - Ashley and Darryl

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-Ashley Howe