

EAST AURORA PLANNING COMMISSION
REGULAR MEETING

March 9, 2005

7:00 PM

Present: Dan Castle, Chairman
Carol Smith, Co-chair
Mary Jo Crone
Dan Bermingham

Excused: Randolph West
Michael Croft
Lowell Dewey

Others Present: Secretary: Joyce M. Jezewski, Deputy Clerk Treasurer
Building Inspector Bill Kramer
Timothy Boyle, NOCO
Paul Bandrowski, Aurora Ventures
Todd Selbert, Country Comfort
Teresa Scharlau, Country Comfort
Greg Schneider, Westermeier & Martin Dental Arts
Scott Westermeier, Westermeier & Martin Dental Arts

Chairman Dan Castle called the meeting to order at 7:05 p.m.

Motion by Carol Smith to approve the minutes of February 2, 2005. Seconded by Dan Bermingham and unanimously carried.

Proposed Local Law #2 of 2005 – Amend Zoning on Certain Park Place Properties

The Village Board is proposing to re-zone the properties at 11, 19, 20, 25 Park Place (including vacant lot) from their present Commercial (C) zoning classification to Residential (R).

Tim Boyle indicated that his company owns the property at 19 Park Place and recently purchased the property at 11 Park Place (formerly owned by Doris Zee). He would prefer that the properties were placed in a transitional zone; i.e. Residential Commercial (RC) or Mid Main (MM) versus the slated Residential re-zoning, especially for the 11 Park Place property. He will not, however, oppose the re-zoning for 19 Park Place. NOCO would oppose rezoning of 11 Park Place as they may want to incorporate a commercial use into this structure (which it has had in the past). He assured the Board that NOCO does not intend to demolish either structure at 11 Park Place nor 19 Park Place. He feels the transitional zoning would be in compliance with the village's comprehensive plan.

The other aforementioned property owners, although not present at this meeting, voiced their opposition either verbally or in writing to the Village, to the proposed re-zoning of their property.

Considerable discussion focused on what was a reasonable approach to protect the residential character of the neighborhood from potential demolition and

encroachment by high intensity commercial uses (such as those fronting on Main Street). Primary concern was to protect the current structures from demolition. Secondly it was felt that a transition zone from the more intense C zone along Main Street to the more restrictive R zone toward Oakwood would be appropriate, as long as it provided protection from demolition.

It was noted that none of the affected property owners supported the proposed rezoning. Although NOCO would not oppose rezoning of 19 Park Place, they would oppose rezoning of 11 Park Place. Other landowners are on record as opposing this rezoning as they claim it would constitute a taking of their property value.

The desire of the Planning Commission was to achieve a balance of zoning protection to protect the character of the area, yet still allow these landowners some recourse for incorporating an appropriate commercial use into the existing structure. It was also noted that the Village Comprehensive Plan does allow for a transitional zone buffering Main Street uses from the residential areas.

The Planning Commission was also concerned regarding the impression of Spot Zoning if a single parcel is set aside for a different zoning classification than any other property in the immediate area. This may happen if one parcel (i.e. 11 Park Place) is zoned RC in an area between the MM, C, or R zones.

Motion by Mary Jo Crone to not change the zoning classification from its present Commercial status to Residential. Seconded by Dan Bermingham and unanimously carried.

Motion by Carol Smith to recommend re-zoning from Commercial to either Residential Commercial (RC) or Mid Main (MM) based on the following findings:

- The affected property owners do not support the proposed re-zoning of their property from Commercial to Residential
- A transitional zone between a residential area and more intense uses such as those immediately fronting on Main Street (i.e. NOCO, Charlie's Diner, car dealership, etc) is appropriate and a reasonable, as long as it provides for protection of existing structures and allows lower intensity commercial uses which are subject to future review and approval by the Village Board.
- Re-zoning to Mid Main would be consistent with the need for a transitional designation between the residential neighborhood and Main Street and would be consistent with the zoning of similar areas in close proximity to Main Street currently within the MM zone.
- Rezoning to Mid Main or RC would still allow for protection of the existing structures and ensure that any development proposal affecting these structures would come before the Village Board for approval. It would be more reasonable for the Village Board to be able to consider the merits of a particular project rather than a blanket rezoning of the area without consideration of a specific use.

Seconded by Dan Castle and unanimously carried.

Special Permit for Country Comfort Restaurant – 726 Main Street

Paul Bandrowski gave a brief history of the property and prior tenants. The property has housed various restaurants for the past 34 years. Based on Paul's estimate, there are 34 parking spaces located behind the building. He also noted that a variance was given in the past for parking. *(Editor's Note: A research of the ZBA minutes indicated that a variance was given for 5 parking spaces on 12/19/02; ZBA minutes of 8/31/72 granting approval for a variance for the property conditioned upon the dwelling at 14 Pine and garage at 20 Pine be demolished to provide for 38 off street parking spaces)*

Todd Selbert indicated that the restaurant would be open from 9:00 a.m. to 3:00 p.m. daily, except Friday where the hours will be open from 9:00 a.m. – 9:00 p.m. They will serve beer and wine, have a bakery counter and sell locally produced crafts. In some instances, they will do catered parties after normal closing, but in no event will the time exceed beyond 11:00 p.m. The total seating will be for 134.

According to the building inspector's calculations, they need one (1) space for every five (5) seats or 27 parking spaces. Presently, Ashwood Artisans is allocated five (5) parking spaces.

Motion by Carol Smith to recommend approval of the special permit for Country Comfort Restaurant, conditioned upon the parking requirements meeting the terms of the previously granted variance(s). Seconded by Dan Bermingham and unanimously carried.

Westermeier & Martin Dental Care – 950 East Main Street

Architect Greg Schneider reviewed the amended development plan with the Planning Commission. With regard to the questions previously raised by Trustee Cheteney, the following was noted:

- The 12 parking spaces fronting on Main Street have been moved; propose 24 paved spaces and 12 gravel spaces for employees.
- The area between the front of the Building and Main Street would remain vegetated, and would not be paved for parking.
- There will be 10 dental chairs
- There is one (1) parking space for every 300 square foot of building; parking spaces exceed the number required
- The upgraded gravel lot will be more impervious to water and is not within the flood plain
- Lighting plan has not changed from previous plan
- Although not expected to change, the signage will be in compliance with code
- The previous building permit has expired
- A variance is required for the front yard setback
- SEQR has been completed
- Vegetation buffers will be maintained
- According to the applicant, the neighbor adjacent to the building on the west does not object to the proposed expansion as long as a quieter air conditioning unit is included. Applicant assures that it will be.

Motion by Mary Jo Crone to recommend approval of the amended development plan and contingent upon the approval of the Zoning Board of Appeals for the front yard setback; and also provided that dense landscaping is provided between parking spots on Brooklea and the sidewalk; that surface water and storm drainage is adequately provided for; that SEQR forms have been completed and filed with application. Seconded by Carol Smith and unanimously carried.

Planning Commission Role & Responsibility

The Village Board requested input from the Planning Commission on their role and responsibilities so that it may be reviewed and considered prior to updating the Village Code. Motion by Dan Bermingham, seconded by Carol Smith to postpone this discussion until the next Planning Commission meeting on Wednesday, April 6, 2005.

Motion by Carol Smith to adjourn the planning commission meeting at 8:30 p.m. Seconded by Dan Bermingham and unanimously carried.

Respectfully submitted,

Joyce M. Jezewski, CMC
Deputy Clerk Treasurer