

VILLAGE OF PALMYRA BOARD OF TRUSTEES

Regular Mtg.

February 6, 1995

7:30 p.m.

PRESENT: Mayor James G. Elliott, Trustees Frederick Celentano, Ann F. Guest, Daniel E. Wooden, and Kathleen C. Drews. Attorney John Nesbitt arrived at 8:15 p.m.

CALL TO ORDER: Mayor Elliott called the meeting to order at 7:30 p.m.

PLANNING BD. REP. ELAINE HARTNAGEL: E. Hartnagel stated the following: On Wednesday, January 4, 1995, James Hollingsworth appeared before the Planning Board and on Tuesday, January 10, before the Zoning Board to request a Use Variance from section 29-18A.B of the Village Code to permit a personal service establishment -- hair, nail, and tanning salon in a C-4 district.

The Planning and Zoning Boards considered the code and a letter from Village Attorney, John Nesbitt. Both boards and the Village Attorney felt the intent of our local code included personal service type businesses such as requested by Mr. Hollingsworth. In fact, the Planning Board drafted an addition to Section 29-18A.B #7 to spell out the laws intent.

If you consider that we have a hair and tanning salon (Extensions) on Main St. in an R1 District and a hair salon (Isabels) on Stafford St. also in an R1 District, it seems logical that a hair and tanning salon would be acceptable in a C-4 District.

In the process of following legal procedure, Mr. Hollingsworth filed a request for a use variance, which required a hearing fee of \$50. Considering that both boards and the Village Attorney feel the intent of our local law included this type of business. I am requesting the Village Board consider refunding the \$50 paid to the Village by Mr. Hollingsworth.

Discussion: Mayor Elliott and Attn. Nesbitt noted that when the remodeling first began by Provost a special variance was needed because the bldg. was in a residential district and the residents in the area came to the hearing(as Mayor Elliott remembered)the neighbors noted an objection to a salon, considered a service business. E. Hartnagel said there was nothing specific in any recorded minutes, she had looked through them. Trustee Celentano asked if any complaint was received? Mayor said NO and Mayor noted that no one objected at the variance hearing for Hollingsworth either. Mayor Elliott suggested that Zoning redistricting wait until the Master Plan was ready instead of redistricting twice. The Planning Bd is responsible for rewriting the districting and zoning for the Master Plan per E. Hartnagel. E. Hartnagel referred to Attorney Nesbitt's letter which said that a salon appeared to be an ok use. Letter as follows:

December 28, 1994

Ms Kerry Elvin
Village of Palmyra
144 E. Main St.
Palmyra, NY 14522

Dear Kerry:

This follows our telephone conversation of earlier today. It is my opinion, as Village Attorney, that a variance is not required for operation of a service oriented business at the Hollingsworth site, by virtue of it being an "office" as set out in section 29-18A of the Village Code, denominated Neighborhood Commercial (C-4) District. I was the drafter of this local

135

legislation, and the intent was not to preclude the run-of-the mill service-type business, such as beauty salons, real estate offices, and the like, where the retail sales are incidental to the primary usage of service. Obviously, different facts beget different results, and we would review other occupational uses on a case by case basis.

As always, if you have any questions, or desire any further information, please let me know.

Very truly yours,
John B. Nesbitt

Trustee Guest suggested that this issue wait until Attorney Nesbitt is at the meeting and reviews his response.

MINUTES: Trustee Wooden moved to accept the minutes of the January 16th, 1995, meeting as written seconded by Trustee Guest, vote, 5 ayes, CARRIED.

UNION NEGOTIATIONS: Executive Session.

ABSTRACT #17: Mayor Elliott moved to authorize the Treasurer to pay all the bills on Abstract #17 which are prepared by the end of business day Tuesday, 1-7-95 which are vouchers #943 - 1015 totalling \$57,418.61, seconded by Trustee Guest, vote, 5 ayes, CARRIED.

KENT STREET: Mayor Elliott reported that there were 6 yes - 1 no, and 2 verbal yes. Eighteen (18) pieces were sent. Mayor Elliott moved to have a public hearing on changing Railroad Avenue to Kent Street to be held on February 21 ST. at 7:30 p.m. This would be Local Law #2, 1995, seconded by Trustee Drews, vote, 5 ayes, CARRIED.

HOLLINGSWORTH DISCUSSION CONTINUED: Mayor Elliott reviewed the discussion with Attorney Nesbitt. It was discussed that Gills' needed a variance and that the residents noted at the hearing they did not want a bakery, bar, or restaurant at that location. Mayor Elliott recalled that no retail sales were also permitted. Trustee Wooden asked who required a variance, C. Akerman, current CEO did. Trustee Wooden asked if returning the fee of \$50 was saying ok to have the business. Mayor Elliott said a variance was received how could the fee be given back? Trustee Guest noted that the ZBA should add this use to the ordinance. E. Hartnagel stated that the intent of the law and the Pl. and ZB felt that no variance was needed there. Trustee Guest noted that when the Bldg. permit was issued by the former CEO he did not inquire about use. The use should have been requested in the permit.

Trustee Guest said that the \$50 should be return to Hollingsworth and the zoning law to permit this use was changed to permit form now on. Trustee Wooden asked if this return of money would make a problem with the current case pending, Attorney Nesbitt said that no impact on this case would occur. Mayor Elliott noted that J. Hollingsworth had not requested the return of the money.

The definition of personal service was checked in ordinance Chp. 29 and the Attorney Nesbitt said that these specific services should be listed. Trustee Wooden moved to refund the \$50 to J. Hollingsworth (does that mean that the variance will be taken back?) Attorney Nesbitt will clarify this question for future and it should be addressed. Trustee Drews seconded it. VOTE: Mayor Elliott- nay, Trustee Drews aye, Trustee Celentano aye, Trustee Wooden aye, and Trustee Guest abstain. CARRIED 3-1-1.

Discussion by Mayor Elliott and Trustee Celentano to change during Master Plan. Trustee Guest said that the Planning Bd. should request change.

MARCIA ROBBINS RESIGNATION LETTER AS MEMBER AND CHAIRPERSON OF PLANNING BOARD: Marcia Robbins requested per a letter of 1-30-95 that her letter of resignation be accepted to begin immediately. Mayor Elliott moved to accept Marcia's letter with regrets, seconded by Trustee Celentano, vote, 5 ayes, **CARRIED.**

OFFICER THOMAS W. ALESSI RESIGNATION: Mayor Elliott moved to accept a letter of resignation dated 1-13-95 effective 2-1-95 with regrets seconded by Trustee Celentano, vote, 5 ayes, **CARRIED.**

STREET LIGHT ON RAILROAD AVE.: A request was received from Town of Palmyra Highway Supreintendent to request a street light at the corner of Rt. 21 and Railroad Ave. Since the new bridge has been put in the light is no longer at the corner. Mayor Elliott moved to ask the NYSEG to install a light at the intersection of Rt. 21 and Railroad Ave. and check the distances to see if that gave enough light to move the other light or leave the light there having both lights there, seconded by Trustee Drews, vote, 5 ayes, **CARRIED.**

NEW CHAIRPERSON FOR PLANNING BOARD: A motion was made by Mayor Elliott to appoint J. Hudak as chairperson of the Village Planning Board to fill the unexpired term of Marcia Robbins which expires on the first Monday in April, seconded by Trustee Wooden, vote, **5 ayes, carried.**

TRUSTEE CELENTANO REPORTS: Trustee Celentano read the monthly report from R. Weaver, Superintendent of Highway and Parks and Cemetery.

M E M O

TO: FRED CELENTANO
FROM: ROGER WEAVER
DATE: FEBRUARY 1, 1995
RE: HIGHWAY MONTHLY REPORT FOR JANUARY, 1995

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1. Pickup and chip remaining christmas trees.
 2. Repair catchbasins on Jackson & W. Foster Sts.
 3. Clean all catchbasins on Cuyler, Birdsall, Stafford and Church Sts.
 4. Flush sewer line on W. Main, Hansen and Gates St.
 5. Sewer plug on E. Jackson - flush lines.
 6. Remove old pipe in Village hall cellar jail.
 7. Repair potholes on Village streets with cold patch.
 8. Water service at 143 William St.
 9. Repair lights in north parking lot on Main St. - Lights owned by Village.
 10. Salt roads and haul salt to salt shed - 70 ton for Jan.
 11. Organize water shed - build binds and label parts, inventory
 12. Work with Village const. on Gates Drainage project.
 1. Drain middle section of Towpath Canal
 2. Clear Canal bottom of debris.
 3. Remove stumps from Main St.
 13. Paint highway supt. office - walls, floors, bathroom.
 14. Replace tile floor in highway office.
 15. Paint highway garage walls, floor, bathroom
 16. Organize highway garage workbench areas.
 17. Jerry and John repair - gas modules in -
 - 1988 Ford 1-ton
 - 1990 Ford pickup
 - 1986 L8000
 - 1988 1-ton - replace battery/alternator
 - General truck maint.
 18. Overtime hours for January
 - Roger - 23
 - Jim - 12
 - John - 10
 - Gerry - 7
 - George- 6

137
Total 58 hours

MONTH ENDING NOTES

- Scott Smith still out
- Have completed sidewalk 4-yr plan to be discussed at future board meeting.
- used 70 ton salt for Jan. at \$25.17/ton = \$1,761.90.

TRUSTEE GUEST REPORTS:

HISTORIC PRESERVATION LOCAL LAW: Trustee Guest noted that she plans to look over the proposed law. Mayor Elliott noted that he has received copies of a law from Pittsford, Penfield, and Canandaigua's.

PLANNING BOARD MEETING: March 14th, 1995, the Planning Bd is to work on the sign ordinance. A special Village Board Mtg. is called for the week of March 20th, 1995, except Tuesday, C. Akerman will be asked to be present.

HIGHWAY LATERAL: Trustee Wooden referred to the letter from Superintendent R. Weaver to the NYMIR insurance which stated that he, (Trustee Wooden) said that the Highway Dept. broke the lateral. Trustee Wooden explained that he did not accuse, it was his opinion that the Highway might have broken the lateral and still believes that is the case. Trustee Wooden noted that he asked J. Wilson about the possibility of the Highway Dept. breaking the lateral when last working on the project at Swiss Chalet. J. Wilson stated that he did not think that was possible.

Mayor Elliott noted that the insurance company requested that R. Weaver, Superintendent of Highway, write a letter explaining the situation with regards to the incident at Gerber Swiss Chalet.

CANANDAIGUA WATERSHED COMMISSION: Trustee Wooden explained that the Watershed which is totally run by the five (5) municipalities that received water from Canandaigua Lake had noted that some of the surrounding municipalities and concerned organizations be involved in the decision making of the commission. Trustee Wooden wanted the VB's opinion on this. The concensus of the VB was that the five (5) municipalities continue to have a controlling say while maybe the others could be on an advisory comm. with no vote or very limited vote.

Trustee Wooden moved that the VB recommend the voting membership of the Canandaigua Watershed remain in its present structure, seconded by Mayor Elliott, vote, 5 ayes, CARRIED.

CANAL DEVELOPMENT COMMISSION: Trustee Wooden announced a public meeting for information only on February 23rd, 1995, at 7:30 p.m. This meeting is a change from Feb. 16. It was suggested that the meeting be held at the Ele. Cafeteria. Trustee Guest will check on. Mayor Elliott noted that the VB will also meet at that time.

Trustee Wooden moved to appt. J. Hudak, Chairman, of the Canal Development Comm. VB will need to do any voting stated Mayor Elliott. The Comm. consists of Peter Wilson, Patricia Pope, Dean Williamson, John Hudak, John Baynes, and Trustee Daniel Wooden. Mayor Elliott suggested to ask Marcia Robbins if she would like to be on this comm. at least in an advisory capacity. The Comm. could take no action of an official nature. Trustee Guest seconded the motion, vote, 5 ayes, CARRIED.

Meetings are held on Saturday mornings, in the Trustees' Room at 8:00 a.m.