

**VILLAGE OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
FEBRUARY 14, 2023**

PRESENT: Nancy Rogan, Chairperson
Sheila Burrell, Member
Sean Cornelius, Member
Chad Neal, Member
Damon Newpher, Member
Greg Cappelli, Alternate Member

ALSO PRESENT: Gregory Keyser-Village Planner, Kelly Fredrickson- CEO, Jeremy Wassel-Ellicott Development, Corey Hogan-Applicant, Jessica Gilbert-Applicant, Aaron Tiller-Architect, Terry Hunt, Lisa Hunt, Perry Chamberlain

AGENDA: VPZ-2022-229 - 1-5 Washington Street, Ellicott Development
Special Use Permit-New Professional Law Office
Public Hearing 2/14/2023

VZP-2022-249 - 1-5 Washington Street- Ellicott Development
Special Use Permit- Baker/Food Service
Public Hearing 2/14/2023

VZP-2023-008 - 23 Jefferson Street- Jessica Gilbert
Sign Permit- New Ground Sign

VZP-2023-009 - 22 Monroe Street- Jessica Gilbert
Sign Permit - New Wall Sign

VZP-2022-105- 79 Elizabeth Street- Kevin Kelly
Amendment- Architectural Design Review

DISCUSSION: Nancy Rogan, Chairperson called the meeting to order at 5:30 p.m. and opened the public hearing for VZP-2022-229, 1-5 Washington Street, Ellicott Development, Special Use Permit application for a new professional Law Office

Jeremy Wassel, Ellicott Development, presented the plan to allow the build-out of approximately 2,403 s.f. of space within the existing commercial retail building for professional office use by HoganWillig PLLC. We are proposing to add an angled gooseneck light above the entrance and a wall sign. Hours of operation are 8 am to 5 pm Monday through Friday.

Corey Hogan from the law firm advised that they are moving from a location on Route 219 to the Village because they are expanding their business and need more space.

Nancy Rogan asked for questions or comments from the people attending?

Greg Keyser stated that no written or verbal comments were received in response to the public hearing notice which was published in accordance with local law.

MOTION: Moved by Chad Neal to close the public hearing for VZP-2022-229, 1-5 Washington Street, Special Use Permit for a new law office for HoganWillig. Seconded by Damon Newpher. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2022-249, 1-5 Washington Street, Ellicott Development, Special Use Permit application for a new bakery/food service.

Jeremy Wassel presented the plan to allow the build-out of approximately 2,201 s.f. In a portion of the retail building for a bakery with food service. The bakery expects to produce artisanal loaves of bread and pastries daily for purchase. Drinks such as coffee are expected to be part of the menu. Carry-out is expected to be a majority of their business, but there will be some tables. The hours of operation are 7 am to 4 pm, Monday through Sunday. The proposal includes the installation of a door on the east elevation for a rear entrance and 1 angled gooseneck light over the main entrance and a wall sign.

Mr. Corey Hogan advised that he is establishing the bakery which will open in the late summer or early fall.

Nancy Rogan asked for questions or comments from the people attending?

Greg Keyser advised that no written or verbal comments were received in response to the public hearing notice which was published in accordance with local law.

Lisa Hunt of 11 E. Washington Street asked, will there be deliveries from the rear?

Mr. Wassel said no, deliveries will be made from the front. The rear door is required to meet fire code for occupancy.

Lisa Hunt asked if the lights at the rear of the building will be changed to gooseneck?

Jeremy Wassel said LED lights at the rear for Ratchet Hatchet will have shields.

Terry Hunt asked how much seating will be in the bakery?

Mr. Hogan said there will be a couch and some tables and chairs.

Greg Cappelli noted that the plans show a counter top and tables.

Mr. Wassel said there are two 4-top tables with chairs. This is not a full restaurant.

Corey Hogan said the original intent was just to sell bread. Therefore we are limiting seating.

Mr. Cappelli asked how many people will you employ?

Mr. Hogan said 2 or 3 people.

Mr. Hunt asked if the new driveway layout is on the agenda?

Mr. Keyser said the applicant is still working on the site plan.

MOTION: Moved by Sheila Burrell to close the public hearing for VZP-2022-249, 1-5 Washington Street, Special Use Permit for bakery/food service. Seconded by Chad Neal. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan, Chairperson opened the regular meeting and presented the agenda for changes, additions or approval. The agenda was approved as submitted.

The Minutes of the January 10, 2023 meeting were read.

MOTION: Moved by Chad Neal to approve the Minutes of January 10, 2023 as read. Seconded by Sheila Burrell. Vote 4-0. Carried.

DISCUSSION Nancy Rogan presented VZP-2022-229, 1-5 Washington Street, Ellicott Development, Special Use Permit application to establish a professional law office by HoganWillig for discussion.

Mr. Keyser advised that the project is exempt from referral to the Cattaraugus County Planning Board. The Planning Board should classify the project as a Type 2 SEQR action before acting on the application. A sign permit application is not included in this approval and parking sufficient for the use must be provided. He offered motions for the Board to consider.

MOTION: Moved by Chad Neal that the application meets the definition of a Type 2 action under 617.5(c)(18) involving the change of use of space within a commercial structure containing mixed commercial uses. No further review under SEQR is required. Seconded by Damon Newpher. Vote 4-0. Carried.

MOTION: Moved by Sheila Burrell that the Planning Board finds that the project meets the special use permit standards under Section 5.6 of the Village Code and grants the Special Use Permit to establish a professional law office at 1-5 Washington Street as per materials submitted in VZP-2022-229 with the following condition:

1. Site access is limited to the primary driveway entrances located on East Washington Street and Mill Street. No site access is permitted through the common driveway at 9 and 11 East Washington Street.

Seconded by Damon Newpher. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2022-249, 1-5 Washington Street, Ellicott Development, Special Use Permit application to establish a bakery/foodservice by Corey Hogan for discussion.

Greg Keyser advised that this project is exempt from referral to the Cattaraugus County Planning Board. The Planning Board should classify the project as a Type 2 SEQR action before acting on the application. A sign permit application is not included in this approval and parking sufficient for the use must be provided. He offered motions for the Board to consider.

MOTION: Moved by Sheila Burrell that the application meets the definition of a Type 2 action under 617.5(c)(18) involving the change of use of space within a commercial structure containing mixed commercial uses. No further review under SEQR is required. Seconded Damon Newpher. Vote 4-0. Carried.

MOTION: Moved by Chad Neal that the Planning Board finds the project meets the special use permit standards under Section 5.6 of the Village Zoning Code and grants the Special Use Permit to establish a bakery/foodservice at 1-5 Washington Street by Corey Hogan as per materials submitted in VZP-2022-249 with the following conditions:

1. Site access is limited to the primary driveway entrances located on East Washington Street and Mill Street. No site access is permitted through the common driveway at 9 and 11 East Washington Street.
2. Deliveries will be made through the main entrance.

Seconded by Sheila Burrell. Vote 4-0. Carried.

Terry Hunt asked, whether Hatched Ratchet is approved, we need the fence along the residential properties installed.

Sean Cornelius noted that the fence should be installed anyway. The Planning Board has required fencing for other commercial businesses and it should apply here.

Greg Keyser advised that the original approval for the existing building included employee parking.

Kelly Fredrickson noted that the original approved plan required a fence but the driveway was not shut off.

Jeremy Wassel said the fence will be installed when the work starts.

Terry Hunt expressed concern that when the fence is installed vehicles will park in his driveway.

Mr. Wassel said that Cattaraugus County IDA vehicles will park in their driveway and signage will be installed to prevent blocking the driveway.

MOTION: Moved by Chad Neal to amend the Special Use Permit approval for VZP-2022-229, 1-5 Washington Street, Hogan Willig professional law office to include the the following condition: A 6 foot high wooden privacy fence will be installed to block off the driveway and prevent in and out traffic in the residential area. Seconded by Sean Cornelius. Vote 4-0. Carried.

MOTION: Moved by Chad Neal to amend the Special Use Permit approval for VZP-2022-249, 1-5 Washington Street, Corey Hogan bakery/foodservice to include the following condition: A 6 foot high wooden privacy fence will be installed to block off the

driveway and prevent in and out traffic in the residential area. Seconded by Damon Newpher. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2023- 008, 23 Jefferson Street, Jessica Gilbert, Sign Permit application for a new ground sign.

Jessica Gilbert presented a drawing of her proposed two-sided sign which is approximately 22 square feet and uses an existing wooden frame. The 5.5 foot high posts are 4 feet apart. A blank white board will be installed between the white posts where each business will attach its own signage in a 16 inch by 4 foot area. The Grace Properties lettering at the bottom of the sign will be green or black or gray. She currently has 2 tenants - 716 Realty and a Hairpin with the potential for one more.

Nancy Rogan advised that 3 colors are permitted. Each business will have to submit their signage for approval. Any lighting will have to shine down on the sign.

MOTION: Moved by Chad Neal to approve sign permit application for a 5.5 foot by 4 foot two-sided rectangular wood sign for 23 Jefferson Street, as per materials submitted in VZP-2023-008 by Jessica Gilbert with the following conditions:

1. Any lighting will shine down on the sign.
2. Additional businesses will submit their signage for approval.

Seconded Sean Cornelius. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan presented VPZ-2023-009, 22 Monroes Street, Jessica Gilbert, sign permit application for a wall sign.

Jessica Gilbert presented a photograph of the 2 foot by 4 foot oval wall sign to be attached to the face of the building at 22 Monroe Street approximately 6 to 7 feet above the sidewalk. This white and green plywood sign is the same one she used at her previous locations. She will use the existing lighting on the building.

Greg Keyser noted that the sign will be mounted less than 60 feet from the centerline of the road which triggers Planning Board review. The building face is approximately 20 feet from Monroe Street.

MOTION: Moved by Sheila Burrell to approve sign permit application for a 2 foot by 4 foot oval plywood wall sign for 22 Monroe Street which will be placed on a facade which is less than 60 feet from the centerline of the road and will be lighted with the existing lighting on the building as per materials submitted in VZP-2023-009 by Jessica Gilbert, Seconded by Damon Newpher. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan presented VZP-2022-105, 79 Elizabeth Street, Kevin Kelly an amendment to the architectural design approval of August 9, 2022.

Greg Keyser advised that the applicant is requesting a change to the size of the approved covered porch. The approved design involved a 12 foot by 38 foot covered porch on the rear right side of the house. The applicant is now proposing to change to a 16 foot by 28 foot porch. The original approved drawing and an updated set depicting the new porch design have been submitted.

The project has not been completed and the original design was approved by the Planning Board as part of the Architectural Design Review process. The Planning Board must determine if the proposed porch design is a substantial change to the original plan. The proposed design complies with the zoning requirements and encompasses less than area (448 s.f.) then the approved design (456 s.f.).

The Planning Board must determine if the proposed porch design **IS** a substantial change from the approved design and complete a public notice: or determine if the proposed porch design **IS NOT** a substantial change from the approved design and approve the change as an amendment to the approved plan.

MOTION: Moved by Sean Cornelius that the Planning Board determines that the proposed change in the porch design is not substantial and to approve the amendment to change the 12 foot by 38 foot covered porch to a 16 foot by 28 foot covered porch on the rear right side of the house at 79 Elizabeth Street as per materials submitted in VZP-2022-105 by Kevin Kelly. Seconded by Damon Newpher. Vote 4-0. Carried.

DISCUSSION: Nancy Rogan referred to 1-5 Washington Street and noted that Ellicott Development is negotiating with the property owner of the first house adjacent to KwikFill to purchase a portion of their property to make a commercial driveway. The Zoning Code will not allow changing residential to commercial.

Damon Newpher noted that property in the Village Residential District cannot be subdivided. Nancy Rogan stated that changing residential to commercial is spot zoning which is not allowed.

Damon Newpher asked can Ellicott Development lease a portion of the residential property? Nancy Rogan asked Greg Keyser to speak to Richard Stanton, Village Attorney about this issue. She also noted that we need to maintain the zoning districts and cannot make decisions that start precedents. It is not the Planning Boards job to make things work for applicants.

Sean Conrelius stated that we need to be consistent.

Greg Keyser said we do not want to add more difficulties to the property.

MOTION: Moved by Damon Newpher to adjourn at 6:20 p.m. Seconded by Sean Cornelius. Vote 4-0. Carried.

Submitted by: Donna Baldwin, Secretary