

## Zoning Board Meeting

December 16, 2004

### Present

Chairman Powell Keery  
George Fellows  
Michael Flavin  
Barbara Strine

Trustee Theodore Rauber  
Village Attorney Richard Olson  
Building Inspector Jack Crooks

### Others Present

Robert Avery  
Joseph LaFay  
Lillian Powell  
Mark Unvericht  
Patricia Unvericht  
Barbara & Richard Puffer  
Larry Fennity  
Linda & Richard Dubois  
Dan Dollinger  
Louis Azzolina  
Dennis Calari  
Frank LeChase  
Joseph Calari  
Jason Calari  
Chuck Henderson  
Nicholas Joseph  
Ernest Campoli  
F. Citale  
Donna & Ricardo Jordan  
Brad Kuskin

### Absent

John Dole

3225 Chili Ave  
36 W Main Street  
90 Nichols Street  
28 Pinecrest Drive  
28 Pinecrest Drive  
102 Village Hill Drive  
139 Maplewood Ave  
104 Village Hill Drive  
72 Parkhurst Drive  
81 Highview Drive  
35 Coolidge Drive  
19 Sean Lane

12 Nicole Drive  
650 OPTL Rd  
2 Santana Drive  
3700 Chili Ave  
15 Hollow Hill Lane  
4 Marc Mar Circle  
95 Allens Creek Road

Chairman Powell Keery led the Pledge of Allegiance.

### Public Hearing

The application of Daniel Dollinger of 72 Parkhurst Drive, Spencerport, NY for an area variance for an existing front deck with a front setback of 26 ft. on property located at the same; whereas, the minimum required front setback is 50 ft. pursuant to Chapter 140-12.B(1) in an R-1 Residential District.

Mr. Dollinger: I didn't realize that I needed a variance when I had the deck installed. There were two sets of decaying steps one on the side and one on the front of the house. I hope we can work this out.

Jack Crooks: The code refers to a 50 ft setback, but in the neighborhood where this property is, this type of setback 25-35 ft front setback is consistent with the neighborhood. I don't believe it will have a negative

impact on the neighborhood. A building permit has been acquired, and will be approved per approval from this board.

The Zoning Board agreed after inspecting the deck that it had been built to professional standards.

At this time, the following resolution was offered:

**Resolution No 145  
December 16, 2004**

**Introduced by George Fellows  
Seconded by Michael Flavin**

Resolved that the application of Daniel Dollinger of 72 Parkhurst Drive for an area variance for an existing front deck with a front setback of 26 ft on property located at the same: whereas the minimum required front setback is 50 ft. pursuant to Chapter 140-12.B(1) in a Residential District be approved.

Such approval based on the following conditions and considerations.

1. Such addition will not have a negative impact on the neighborhood.
2. Nor, will such addition have an adverse environmental impact on the neighborhood.
3. Such porch maintains the character of the neighborhood.

Furthermore, such variance is a Type 2 action and no further environmental review is required.

Ayes: Powell-Keery, Fellows, Flavin, Strine  
Nays: none

Next on the agenda is the application of Mark and Patricia Unvericht of 28 Pinecrest Drive, Spencerport, NY for area variances for a proposed subdivision of land and site plan approval for a single-family residence on property located at same. The proposed variances are as follows:

1. Lot 1, proposed lot area of 15, 503 square feet, whereas the minimum required lot area in an R-2 zone is 32, 000 square feet, pursuant to Chapter 140-15 A (2) (a) for multiple dwelling units in an R-1 & R-2 District.
2. Lot 1, front setback of 30 ft on proposed lot# 1, whereas the minimum required front setback is 50 ft pursuant to Chapter 140-12-B(1).
3. Lot 2, lot width of 75.6' on lot #2, whereas the minimum required width is 80' pursuant to Chapter 140-12A. (1)(b) in an A District.
4. For a proposed lot width of 75.6 ' on lot #2 whereas the minimum width required is 80% pursuant to Chapter 140-12 A.(1)(b) in an A District.

Such proposed subdivision was granted preliminary and final approval by the Village of Spencerport Planning Board November 2, 2004 contingent upon receiving Zoning Board Approval for the required area variances.

Robert Avery of Avery Engineering is speaking on behalf of his clients, Mark and Patricia Unvericht.

Mr. Avery stated that his clients originally were asking for four variances but now three variances relative to this proposed sub-division and site-plan.

Mr. Avery: This lot is nearly .9 acres; on lot, #1 is the existing four family apartment building. With the division of the property, the lot will be less than the required lot size for a multiple dwelling unit. The Unverichts are proposing to build their new home on lot #2 to the north.

Mr. Avery: As indicated, we are replacing the lines with proper frontage so that we have access on to the west end of the public right of way. However in doing so we need to request the three variances. We don't feel that we are placing things in this neighborhood, which are out of character.

Jack Crooks: There has been a lot of time spent on this particular subdivision with the Planning Board trying to massage both the size of the home and the size of the lots along with the setback issues. This is an acceptable situation for the future homeowners of lot # 2, also to comply with the standards of the four family units. There were drainage issues that have been resolved, and the Planning Board feels that this is a good use of this land and asks that the Zoning Board consider the proposed variances.

Chairman Keery Powell asked Jack Crooks for his opinion in regards to this subdivision maintaining the character of the neighborhood.

Jack Crooks: The smaller sites are consistent through that area; there are some multi family units and some single-family homes. The lot size is consistent with what has gone on in the village over the years. I don't find it has a negative impact on the neighborhood. Adding another single-family dwelling versus a multi family is a positive situation.

Michael Flavin: Are there any environmental concerns?

Jack Crooks: There is a detention pond to the west with an outpost structure that we have spent a lot of time on. We feel at this point after considerable engineer review that such situation will work better than it has in the past.

Mr. Dubois: I live at 104 Village Hill Drive just directly west of the drainage pond that drainage pond has been through a lot of activity in the last 6 months. My concern is will that affect the drainage pond at all I have seen it two to three feet deep when we have had heavy rain. Was there any proposal for a road north of the proposed three- bedroom house?

Jack Crooks: There isn't any excavation to be done in that pond area; work on that lot will be improving the drainage. In terms of a road to the north side, it is my understanding that such property is owned by CSX, the railroad. To my knowledge there is not a road going through there.

Chairman Powell Keery asked Jack Crooks to elaborate on any improvements.

Jack Crooks: They are going to increase the depth of the swales along the north side of proposed lot #2. When there is outflow from the detention pond once the water gets there the pond was doing its job, it acts as a bladder when there is a huge amount of water the pond holds the water and slows the outlet down so that when it moves easterly, the areas downstream aren't flooded. There is also going to be a manhole added to the northeast side of the proposed lot and the water will be piped from there to the east end of the village's storm water management system. There will not be a negative impact to the houses that sit along the north side of Pinecrest.

George Fellows: The area variance is significant at 50%. Could the property where the pond is be added to the land where the four family home is instead of to the lot where the proposed home will be built, this would reduce the area variance by 6000 sq feet.

Jack Crooks: There was some discussion around that, first of all the Village of Spencerport will now have a drainage easement access over that area, therefore if they need to get in there and maintain it by new government Phase 2 rights they can.

Secondly, to have it be part of the four family subdivision, the thought was we would rather see that controlled under one individual, versus the potential of a non-owner occupied investor.

George Fellows voiced his concern in granting such a large variance and setting a precedent.

Jack Crooks: Each application has to be taken on its own merit, because every situation is unique and has its own areas of impact.

Mr. Dubois asked if the village owned the drainage pond.

Jack Crooks: No, the Unvericht's owns it.

After Board discussion, the following resolution was offered:

**Resolution No 146  
December 16, 2004**

**Introduced by George Fellows  
Seconded by Barb Strine**

Resolved that the application of Mark and Patricia Unvericht of 28 Pinecrest Drive, Spencerport, NY for area variances for a proposed subdivision of land and site plan approval for a single-family residence on property located at same be approved. The proposed variances are as follows:

5. Lot 1, proposed lot area of 15, 503 square feet, whereas the minimum required lot area in an R-2 zone is 32, 000 square feet. Pursuant to Chapter 140-15 A (2) (a) for multiple dwelling units in an R-1 & R-2 District.
6. Lot 1, front setback of 30 ft on proposed lot# 1, whereas the minimum required front setback is 50 ft pursuant to Chapter 140-12-B(1).
7. Lot 2, lot width of 75.6' on lot #2, whereas the minimum required width is 80' pursuant to Chapter 140-12A. (1)(b) in an A District.

Such approvals based on the following considerations and conditions:

1. Such variance will not have a negative impact on the neighborhood.
2. Nor, will such variance have an adverse environmental impact on the neighborhood.
3. The proposed structure maintains the character of the neighborhood.
4. The proposed new structure will conform to all village codes and permits.
5. The unique application of a drainage pond allows the board to consider a 50% variance at this time.

Furthermore, such application is a Type 2 action and no further environmental review is required.

Ayes: Powell-Keery, Fellows, Flavin, Strine  
Nays: None

Next on the agenda is the application of Frank Leccese of JAF Restaurant Inc., 12 Nichole Drive, Spencerport, NY for a special permit to operate a sit down restaurant on property located at 42 Nichols Street, whereas a special permit is required for a sit-down restaurant pursuant to Chapter 140-21.1 B (1) in a B-3 District.

Larry Fennity of Fennity Architects, 85 S Union is speaking on behalf of the applicant.

Mr. Fennity stated that he is in front of the Board requesting a special permit to operate a restaurant in the space that used to be Cranberry's which was a restaurant with a gift shop.

Mr. Fennity: The space is approximately 4200 sq. feet, the seating will accommodate 88 -100 including the bar area. The restaurant will be family oriented offering 11-12 video screen televisions. The theme of the restaurant has been describes as similar to the former Ground Round. The same screens will be very active on weekends for football games, functioning also as a sports bar restaurant.

On Sundays, the restaurant will offer a brunch, and in the later evening hours after the family hours, there will be provisions available for a D.J., dancing, karaoke and at time small jazz bands may perform.

The hours of operation will be 11 a.m. - 2 a.m. six days a week and Sundays open an hour earlier to offer a brunch.

From the outside of the building, there won't be any real changes other than the sign. Mr. Fennity reviewed the plans with the board and the audience. (Filed)

Mr. Fennity stated that the use works very nicely with the location, in as much as the only way in and out is off the main road. This is already a very bright corner with business activity.

Chairman Powel asked if set hours could be set for the business.

Jack Crooks: Certainly in that area, there are businesses open late and even all night.

Attorney Olson stated that the board did not have any jurisdiction in regards to setting hours.

Attorney Olson: Does the whole plaza have enough parking to support the various uses that are there?

Mr. Fennity: What I was looking at predominately at was up in this area there, the engineers tell me there are 96 spaces up in that area. The evening is the time when we will be experiencing our largest crowd right now there are perhaps 2-3 other businesses open at night in the plaza. When I look at our 4200 square feet and look at the code and how they figure out the number of parking spaces needed I come up with 21 spaces.

Attorney Olson: The one that yields the highest, 25 based on your 100.

Mr. Fennity: Ok, so 25 based on my 100 and I have 96 spaces up there that would leave 71 spaces up there to handle the other uses that are open in the evening.

Jack Crooks: I have had comments from the Fitness Center, the business has grown, and their concern is adequate parking for the evening hours. I don't think that is an issue, and if that becomes an issue it should be a landlord tenant issue.

Michael Flavin asked what clientele they were going after.

Mr. Lecesse: Young families for dinner and adults in their 30's, for the latter hours.

George Fellows: I have an idea that this will end up being more of a younger crowd, I get a little nervous when I see arcades and a D.J., which is ok, suppose that it does become unruly, fighting and so forth.

Attorney Olson: The Liquor Authority controls that they will fine the business and if it continues they will shut them down.

Jack Crooks stated that the police would be called first for any problems of that sort.

Barb Strine: My concern is living near that corner; it is very congested in that area now.

Attorney Olson: That is a consideration, but it has improved since Rt 531 opened.

Jack Crooks also stated that the traffic problems have improved in that area, and that this restaurant should not have much of an impact on traffic.

After board discussion, the following resolution was offered.

**Resolution No. 147  
December 16, 2004**

**Introduced by George Fellows  
Seconded by Michael Flavin**

Resolved that the application of Frank Leccese of JAF Restaurant Inc. 12 Nicole Drive, Spencerport for a special permit to operate a sit down restaurant on property located at 42 Nichols Street be approved. Such approval is based on the following conditions and considerations.

1. There will be no negative impact on the neighborhood.
2. The requested permit is not substantial considering the current structure is a strip mall and other restaurants are currently located therein.
3. Any future use of this property will require a special permit if such use is not a permitted use per Chapter 140-18-A in a B-3 District.
4. All site characteristics as outlined in Chapter 140-21.1 C to be followed.
5. This use is consistent with the code, whereas, sit down restaurants are allowed with the issuance of a special permit.
6. A building permit will be required for the interior of structure.

Furthermore, such special permit is an unlisted action.

Ayes: Powell Keery, Fellows, Flavin, Strine

Nays: none

**Approval of Minutes**

Motion made by Chairman Powell Keery seconded by Michael Flavin and carried unanimously to approve the minutes of November 18, 2004.

**Adjournment:**

Motion made by George Fellows seconded by Barb Strine and carried unanimously to adjourn the meeting at 7:57 p.m.

