

VILLAGE OF GREENPORT

COUNTY OF SUFFOLK : STATE OF NEW YORK

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PLANNING BOARD

WORK SESSION & REGULAR MEETING AGENDA

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Third Street Fire Station
Greenport, New York 11944

January 27th, 2022
4:00 p.m.

Before:

WALTER FOOTE - Chairman

PATRICIA HAMMES - Member (Not Present)

SHAWN BUCHANAN - Member

LILY DOUGHERTY-JOHNSON - Member

REED KYRK - Member

ROBERT CONNELLY - Planning Board Attorney

PAUL J. PALLAS - Village Administrator

1 CHAIRPERSON FOOTE: All in favor?

2 (ALL AYES).

3 CHAIRPERSON FOOTE: Meeting is so
4 scheduled.

5 Item No. 3, 19 Front Street. This
6 is a public hearing regarding the site plan
7 application of Kathleen McDowell. The applicant
8 proposes to have outdoor seating in the rear of
9 the building.

10 This property is located in the W-C
11 (Waterfront Commercial) District and is not
12 located in the Historic District. It is Suffolk
13 County Tax Map #1001-5-4-29.

14 At this point would anybody from
15 the public like to speak?

16 MR. PALLAS: If I may, before you
17 take comments. At pre-submission conference there
18 was some confusion as to ownership of the property
19 behind the building. I did clarify that I was
20 incorrect, and I apologize for the confusion that
21 I caused. And the applicant has provided adequate
22 documentation that they have the right to use that
23 area.

24 CHAIRPERSON FOOTE: Okay, but the
25 property itself is owned by Claudio's; is that

1 correct?

2 MR. PALLAS: That's correct.

3 CHAIRPERSON FOOTE: If would you
4 like to speak to the application, please introduce
5 yourself at the microphone.

6 MR. LOEBS: Sure. I'm Steve Loeb's,
7 and I own 15 Front Street, which is the building
8 right next door to Kate.

9 15 Front, for those of you who
10 don't know, is that blue-colored building, has
11 four stores on the first floor, and up above it
12 has four apartments, all of which are and have
13 always been rented to full-time, year-round
14 residents of the Village.

15 The parking lot behind the
16 building, which is for the tenants of my building,
17 is accessed by the same alleyway that is the focus
18 of Kate's application. I'll come back to that in
19 a moment.

20 First, I would like to state that
21 I'm here in support of Kate's application, as
22 modified since the last meeting. My support would
23 be contingent that it would have a sunset, because
24 although Kate and I have always been able to work
25 together very well as neighbors, if she should

1 decide to sell the building, I don't know if I
2 would have that same kind of relationship with
3 whoever comes next. And what happens in that area
4 behind Kate's building, which is part of an
5 alleyway shared by my lot, Kate's lot, and the
6 next two lots to the west on Front Street, matters
7 to me because it bears on the ability of cars and
8 trucks to maneuver in and out of my parking lot.

9 Let me provide a little historical
10 and technical background on this alleyway. Its
11 entrance is on the west side of Main Street
12 between Lucharitos and the Smoke Shop. You might
13 have seen that little gap there. And from there
14 it runs west between Claudio's parking lot on the
15 one side and between four buildings on the other
16 side: 15 Front, which is me; 19 Front, which is
17 Kate; 25, which is Kessie's; and 27, which is the
18 Frisky Oyster.

19 The entire alleyway is owned all
20 the way to Main Street by Claudio's. It's part of
21 the same parcel as their big parking lot.
22 However, it's a right-of-way that was established
23 and deeded to what are now the four Front Street
24 lots that I just listed; 15, 19, 25 and 27, back
25 when that whole area was owned by the Corwin

1 family, and it was partitioned by court order in
2 1856 and then auctioned off in pieces in 1857.
3 And that right-of-way has remained in place
4 continuously across dozens of ownership transfers
5 to this day.

6 Now, the current owners of those
7 four lots sharing this right-of-way have always
8 cooperated in its use. As examples, my neighbors
9 to the west, including Kate, sometimes share the
10 area behind their buildings to park a few cars.
11 We all know that parking is very tough in the
12 village. And my neighbors are welcome to hook
13 into my parking lot as they exit the alley so that
14 they don't have to back out on to Main Street,
15 across the sidewalk, because it's a very blind
16 alley at the end there.

17 And in the case of Kate's current
18 application before this Board, she and I have
19 talked it over. We have some understandings
20 between and us, and I'm fully supportive. And I
21 encourage this Board to accommodate her.

22 CHAIRPERSON FOOTE: What are your
23 understandings you have between you?

24 MR. LOEBS: Basically just that,
25 from time to time, if I'm having work done on the

1 building, that involves maybe some bigger trucks
2 coming in, it's a really, really tight alleyway.
3 And so sometimes in order to get into my parking
4 lot with a larger vehicle I have to go a little
5 beyond where my property is and then back in. And
6 so I might ask Kate, hey, can you move a couple of
7 those tables for an hour just so the truck can get
8 in. Just simple stuff like that.

9 CHAIRPERSON FOOTE: Does the parking
10 that is dedicated for your building, is it part of
11 your parcel or is that --

12 MR. LOEBS: Yes.

13 CHAIRPERSON FOOTE: Because the
14 license that we just looked at as part of the
15 application suggested that Claudio's owned all
16 that property. Literally as far as the property
17 that she is dealing with, you are saying yours is
18 separate and apart from that?

19 MR. LOEBS: No, I'm saying the
20 alleyway that extends from Main Street goes behind
21 my building, behind Kate's building, and further
22 to the west behind the next two buildings. That
23 is owned by Claudio's. But my building does not
24 extend all the way back to that alleyway and in
25 between my building and that alleyway is a parking

1 lot.

2 CHAIRPERSON FOOTE: And that is your
3 property?

4 MR. LOEBS: Correct.

5 CHAIRPERSON FOOTE: And that is
6 under deed, that property, correct?

7 MR. LOEBS: Yes. I have a survey
8 here, if you would like to see it.

9 CHAIRPERSON FOOTE: I'll take your
10 word for it.

11 MR. LOEBS: So as I said, I'm fully
12 supportive of what Kate is doing here. You know,
13 as a business owner whose business who has also
14 been very negatively impacted by COVID, for sure,
15 I'm pleased to accommodate her.

16 But I would like to add as a
17 footnote, in case any other matters relating to
18 this alleyway come before this Board in the
19 future, that its owner does not have the right to
20 grant exclusive access of it to anybody, nor do
21 any of us four property owners have the right to
22 take exclusive access to this alleyway, this
23 right-of-way, which we share. Thank you.

24 CHAIRPERSON FOOTE: Okay, also I
25 want to follow-up, you said you are a little

1 concerned about how this proposed usage could
2 interfere with the use of the right-of-way in
3 terms of getting access to your own parking and I
4 guess turning around.

5 How would it interfere with that?

6 MR. LOEBS: I don't think it would,
7 as proposed.

8 CHAIRPERSON FOOTE: Okay.

9 MR. LOEBS: I don't think it would
10 as proposed.

11 CHAIRPERSON FOOTE: Okay.

12 MR. LOEBS: I'm fine with it.

13 CHAIRPERSON FOOTE: Okay.

14 MR. LOEBS: I'm 100% fine with it.

15 But I don't want it to last forever because,
16 again, if Kate sells --

17 CHAIRPERSON FOOTE: Understood.

18 MR. LOEBS: Thank you.

19 CHAIRPERSON FOOTE: Thank you.

20 Would you like to respond?

21 MS. MCDOWELL: Kate McDowell. I have
22 revised the plan for the back, and there was
23 concern about keeping two parking spaces, so the
24 way I revised that, we could actually park two
25 cars. Unfortunately, since the chain, the

1 boundary, at Claudio's was moved a couple of years
2 ago, we used to be able to park side-by-side. But
3 it's too tight. They actually moved that chain.
4 So I think it's exactly 15 feet off of my
5 building. So, um, in order for us to put two cars
6 in, they have to be parked one in front of the
7 other or else you can't get your doors open.

8 So the way I proposed it is by
9 eliminating, you know, two or three tables, just
10 having three tables outside there closer to the
11 building, just so that we can provide seating for
12 people that are not vaccinated.

13 Right now we do require proof of
14 vaccination to be in the shop. Also, this would
15 be just through COVID. Hopefully this thing will
16 end at some point, and certainly if we have
17 parklets back this summer, I don't know what is
18 happening with that, but if we had that outside
19 seating out front, I would not need to have it in
20 the back. It's just so I can provide something
21 until the numbers come back and we are somewhat
22 back to normal.

23 CHAIRPERSON FOOTE: Okay. The
24 revised plan you submitted, which shows the two,
25 you know, spaces, that is from the, so from the

1 building it goes, total, looks like 16 feet.

2 MS. MCDOWELL: Correct.

3 CHAIRPERSON FOOTE: Okay. And I
4 just want to make sure that does not interfere
5 with this right-of-way that you were describing.

6 MS. MCDOWELL: Well, it's at the end
7 of the right-of-way.

8 CHAIRPERSON FOOTE: Does it
9 overlap -- the right-of-way is a restricted area,
10 you can't park on the right-of-way, correct?

11 MS. MCDOWELL: No, you can.
12 Originally, we --

13 CHAIRPERSON FOOTE: No.

14 MS. MCDOWELL: Yes, we do, we are
15 allowed to park in the right-of-way.

16 MEMBER DOUGHERTY-JOHNSON: How does
17 Frisky get --

18 MS. MCDOWELL: Frisky actually put
19 up a fence so you can't access their property
20 through the alleyway. You can only access it
21 through Claudio's.

22 MEMBER DOUGHERTY-JOHNSON: So you
23 are the end of the alley.

24 MS. MCDOWELL: I'm the end with,
25 there is a store in between myself -- yes.

1 MEMBER DOUGHERTY-JOHNSON: But they
2 don't park there.

3 MS. MCDOWELL: They don't park
4 there, no.

5 MEMBER DOUGHERTY-JOHNSON: On the
6 picture, this is your property, still, right,
7 where you have the tables.

8 MS. MCDOWELL: Well, no, it's
9 Claudio's. This is their property. I only own
10 the building.

11 MEMBER DOUGHERTY-JOHNSON: Okay.

12 CHAIRPERSON FOOTE: Here is my
13 issue. Even though you are saying it's not used
14 by those other buildings to the west of you -- I
15 think that's what you are saying.

16 MS. MCDOWELL: Right.

17 CHAIRPERSON FOOTE: It still is a
18 property right that belongs to all of them. So
19 arguably, unless I'm misunderstanding the facts
20 here, arguably, don't you need the permission of
21 the other property owners that have access to that
22 right-of-way, regardless of whether they use it or
23 not? Don't you need their permission as well?

24 MS. MCDOWELL: I thought that's why
25 I sent them all out notices. I have spoken to

1 them also. They have had no issue with it. They
2 are aware of this meeting. Um, you know, it's
3 never, never been an issue before.

4 CHAIRPERSON FOOTE: Counsel, do you
5 have any thoughts on that?

6 MR. CONNELLY: Have you seen those
7 clearly? It's in the right-of-way, correct?

8 CHAIRPERSON FOOTE: I have a survey
9 of it. A legal description of it. Would you like
10 to add it in?

11 MR. CONNELLY: We would need to get
12 agreements with the owners of the right-of-way.

13 MR. LOEBS: Kate, stop me here if
14 you think I'm misspeaking. The owners, not the
15 owners, but the four lots that have access to this
16 right-of-way by deed have always cooperated, and
17 towards the end of the right-of-way where Kate and
18 the other buildings are, they have always
19 basically just worked it out so they could park
20 their cars there and all of that. And basically
21 we are talking about the same thing here, Kate,
22 unless I'm putting the wrong words in your mouth.
23 And from my standpoint, I'm one of the four lots
24 that share that right-of-way. I'm 100% fine with
25 what Kate is doing. And like I said, we all sort

1 of just worked things out over time, and I think
2 this is just another example of that.

3 CHAIRPERSON FOOTE: Okay. Do you
4 have anything else to add?

5 MS. MCDOWELL: Just the temporary
6 use of it would be really when there is no outside
7 seating out front. And that is a time of year
8 where there is not really a lot of activity
9 happening in the back there anyway. Um, it's not
10 like I'm asking for this in the middle of August.
11 It's really become a safety issue more than
12 anything else. Some people just, you know, I
13 mean, it's cold out. People are still using the
14 outside when there's tables inside. They either
15 are vaccinated and don't feel comfortable, or they
16 are unvaccinated and, you know, want to be able to
17 use our restrooms, to have a drink with their, you
18 know, cheese board.

19 So it's just more, you know, it's
20 helping us as far as business goes to serve
21 everybody. Right now there are not a lot of
22 places to eat in town, especially during the day,
23 a lot of people are closed. So, um, we have been
24 fortunate up until now that we have that space for
25 people to use. And, like I said, as cold as it

1 is, people are still using it.

2 CHAIRPERSON FOOTE: Okay. And how
3 many tables do you have set up inside?

4 MS. MCDOWELL: Inside we have one
5 large table, and then we have two couches with
6 coffee tables, and we have a bar that seats four
7 people.

8 CHAIRPERSON FOOTE: Okay.

9 MS. MCDOWELL: We took out, we had
10 other tables inside, but my store is very narrow
11 and we felt even if people were vaccinated that
12 they would not feel comfortable unless we spaced
13 it out. So.

14 CHAIRPERSON FOOTE: Okay, anybody
15 else?

16 MEMBER DOUGHERTY-JOHNSON: I just
17 have one question.

18 MS. MCDOWELL: Sure.

19 MEMBER DOUGHERTY-JOHNSON: About
20 garbage. If you have a dumpster, where is it?

21 MS. MCDOWELL: The dumpster is in
22 Claudio's parking lot, and it actually condenses,
23 and we all share it. We all pay.

24 MEMBER DOUGHERTY-JOHNSON: Claudio
25 shares it?

1 MS. MCDOWELL: Yes. So it's divided
2 between all of us.

3 MEMBER DOUGHERTY-JOHNSON: So it's
4 not changing where it is.

5 MS. MCDOWELL: No, no. Which was
6 actually a great idea on their part, because
7 originally I think there were something like 12
8 dumpsters back there, and so now it's in one area.
9 There is two very large compressors, and it's all
10 fenced in, so.

11 CHAIRPERSON FOOTE: Okay. Does
12 anybody else have any questions?

13 MEMBER BUCHANAN: I'm just trying to
14 picture back there. I think within the last 12
15 years, is it like a walk-in cooler built back
16 there that is part of Claudio's, is that in the
17 access point?

18 MS. MCDOWELL: No.

19 MEMBER BUCHANAN: Does it end that
20 the space or --

21 MR. LOEBS: About there. I have
22 pictures if anybody wants to see them.

23 MS. MCDOWELL: It's actually closer
24 to Frisky Oyster. It's kind of between Frisky
25 Oyster and Little Creek.

1 MEMBER BUCHANAN: I was more trying
2 to understand if there was already something in
3 that egress way, or whatever, that access way,
4 that they had already put something there. And
5 that was more of the question I had.

6 MS. MCDOWELL: All right. Okay.
7 That's it?

8 CHAIRPERSON FOOTE: All right.
9 Thank you. Anybody else want to speak at this
10 public hearing?

11 (Negative response).

12 If not, I move to close this public
13 hearing. Do I have a second?

14 MEMBER DOUGHERTY-JOHNSON: Second.

15 CHAIRPERSON FOOTE: All in favor?

16 (ALL AYES).

17 CHAIRPERSON FOOTE: The public
18 hearing is closed. We can now have, I now would
19 like to have a post-public hearing conference
20 among the Board members. Anything you guys want
21 to discuss, anything further? I have a few
22 proposals in terms of what I would like to outline
23 if we are going to offer a proposed approval of
24 this action, and I'm just going to lay out what I
25 think is, some of them were raised previously by

1 Patricia Hammes, who is a member of this Board not
2 able to attend today. But she communicated some
3 of these points, some of which we already brought
4 up today.

5 But if we are going to grant
6 approval, I think the approval should be subject
7 to a sunset clause that should last the balance of
8 the calendar year, or earlier, to the extent, as
9 the applicant proposed, if outdoor seating becomes
10 available in the front.

11 The parking is also conditioned
12 that you maintain availability of those two
13 parking spots. It should be conditioned upon an
14 agreement that there be no amplified or live music
15 in the back. That seating is for self-serve
16 customers only. In other words you are not going
17 to have wait staff go out and attend to them, as
18 you suggested when you presented the application.

19 MS. MCDOWELL: Right.

20 CHAIRPERSON FOOTE: And that the
21 seating area is only permitted until 7:00 PM at
22 night.

23 Moreover, it's conditioned, it is
24 not something that goes with the property. It's
25 personal to the current applicant. So if the

1 business is sold, this permitted usage terminates
2 effective immediately.

3 It also should be conditioned upon
4 obtaining a waiver from any other owners who have
5 rights to that right-of-way to the extent it gets
6 encumbered by this plan.

7 It's also subject to the terms of
8 the Claudio license that you provided, as informal
9 as it may be, if they decide to terminate it,
10 obviously your rights terminate at that time.

11 MS. MCDOWELL: Right.

12 MEMBER DOUGHERTY-JOHNSON: It's
13 subject to knowing --

14 CHAIRPERSON FOOTE: Yes.

15 MEMBER DOUGHERTY-JOHNSON: If they
16 want to have dinner later, I don't want to be
17 accused of -- but I agree, I see the point about
18 trying to serve people food. But if people eat
19 later. That's just my thought.

20 CHAIRPERSON FOOTE: Do you want to
21 say eight o'clock? I mean I'm not rigid on this.

22 MEMBER DOUGHERTY-JOHNSON: Eight or
23 nine maybe. Not like eleven o'clock. But eight
24 o'clock, nine o'clock.

25 CHAIRPERSON FOOTE: All right.

1 MEMBER DOUGHERTY-JOHNSON: I don't
2 know how late you are even open, Kate.

3 MS. MCDOWELL: During the winter we
4 are only open to six. And during the summer
5 usually anywhere from seven to nine. Nine is
6 unusual. We would have to be super busy for me to
7 be that late. I'm anxious to get out of there by
8 eight o'clock at the latest. It's a long day.

9 CHAIRPERSON FOOTE: Well, let's not
10 get it overcomplicated. Let's compromise and say
11 eight o'clock, and knowing that you are likely to
12 have access in the front during the warmer months,
13 it's going to go away anyway, so.

14 MS. MCDOWELL: Right. Yes.

15 CHAIRPERSON FOOTE: So with those
16 stipulations that I proposed, at this time, and
17 subject to those conditions, I would like to put
18 this application up for a vote.

19 Do we have a second to put it up?

20 MEMBER DOUGHERTY-JOHNSON: Second.

21 CHAIRPERSON FOOTE: All in favor of
22 the application as so conditioned, say aye.

23 (ALL AYES).

24 CHAIRPERSON FOOTE: The application
25 as so modified and conditioned is approved.

1 MS. MCDOWELL: Thank you.

2 CHAIRPERSON FOOTE: Item number four
3 is a motion to adjourn. Do I have a second?

4 MEMBER DOUGHERTY-JOHNSON: Second.

5 CHAIRPERSON FOOTE: All in favor?

6 (ALL AYES).

7 CHAIRPERSON FOOTE: This meeting is
8 adjourned.

9 (Time Noted is 4:29 PM).

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