

Aug 2, 2023

To: Village of Pelham Board of Trustees

From: Joe Marty, Chairman, Village of Pelham Planning Board



Re: Planning Board Decision re Outdoor Dining Proposed Zoning Language

The Village of Pelham Planning Board met Aug 2, 2023 to review the proposal by two Village restaurants for a zoning text amendment to Chapter 98 of the Village Code in order to allow seasonal outdoor dining in the Business 1, 2, and 3 Districts.

In attendance were Chairman Joe Marty, Matt Margulis, and Ben Ascher, with Ron Diaz on virtually through Zoom. Building Inspector Bill Rogel was in attendance as well.

The petitioners explained that the Sidewalk Café permits, regulated by Chapter 75, allow businesses to utilize only the adjacent sidewalk for outdoor dining, under certain rules. The petitioners don't have enough space on their sidewalks, and don't have a code-based allowance to use their private property for outdoor dining. In a June 1, 2023 memo to Mayor Mullen and the Board of Trustees, they propose Chapter 98 language for an Outdoor Dining Permit to be sought from the Zoning Board of Appeals (ZBA). The suggested language is in Exhibit A (page 12) of that memo.

The Planning Board reviewed the proposal according to its standard checklist, shown at end of this decision memo. **The Planning Board was supportive of promoting local dining establishments by allowing Outdoor Dining with the following changes or notes to the proposed Chapter 98 language:**

- Under proposed Section 98-106.5.F(1) (parking), the Planning Board made clear its expectation that any petitioners seeking such a permit would need to present a credible set of parking sources near enough the establishment that, in sum across subsections i – iv, meet the requirements of Section 98-113. In other words, the ZBA or the Board of Trustees should hold any petitioner to meeting this parking requirement with clearly available and reasonable parking sources.
- Add a subsection before Section 2 (G) that allows for appeals, as below, drawn from 75-6
- In Section 2 (D.2), add this sentence after the first: "At the discretion of the ZBA, screening may be allowed up to six feet irrespective of the limits of lot line screening in other code. " While there are good reasons to hold some lot line screening to four rather than six feet, the good of screening Outdoor Dining from neighbors and the street likely trump existing limitations for this particular matter.

Proposed Section 2 (G)

- A. In the event that the ZBA shall deny any application for Outdoor Dining, it shall provide the applicant with the reasons for the denial in writing. An applicant may appeal such denial to the Village Board of Trustees, which shall have the power to affirm, reverse or modify the decision of the ZBA. Any such appeal must be taken within 30 days of the date of the ZBA's denial. All decisions of the Board of Trustees shall be final.
- B. A permit may be revoked by the ZBA in the event that a permittee has violated any provision set forth in this chapter or any other law, ordinance rule or regulation, applicable to any use being conducted on the premise of which the Outdoor Dining is part.

Planning Board Checklist

Code compliance

Building layout

Interaction with neighboring properties

Effect on traffic

Parking, Including EV charging

School age children

Sewer connection and capacity

Stormwater treatment

Landscaping

Lighting

Commercial space

Bike parking

Garbage and recycling facilities

Solar panels and roof

Construction process/mitigation for neighboring properties