

**PUBLIC HEARING OF  
THE VILLAGE OF MARCELLUS  
HELD AT THE MARCELLUS SENIOR HIGH SCHOOL  
ON MARCH 25, 2024**

**PRESENT:** John J. Murphy, Mayor See List  
Timothy P. Manahan, Trustee  
James P. Curtin, Trustee  
Jeffrey D. Brown, Attorney  
Charnley A. Abbott, Village Clerk

**ABSENT:** None

Pledge of Allegiance

Mayor Murphy made a motion to open the public hearing regarding an application for hardship exception to the Moratorium in effect at 7:08pm, seconded by Trustee Manahan. All board members voted aye and the public hearing was opened.

Mayor Murphy explained that the purpose of the public hearing was to allow all interested parties the opportunity to be heard regarding an application submitted by the owner of 27 East Main street for a hardship exception to the moratorium.

Mayor Murphy turned the floor over to Ari Goldberg of Barclay Damon, attorney for property owner Richard Nojaim. Mr. Goldberg addressed the following five criteria for consideration for an exception based upon a claim of extraordinary hardship:

- 1) The extent to which the applicant has prior to the effective date of this law received any permits or approvals for the proposed business establishment.

Answer: There are no permits at this time.

- 2) The extent to which the proposed business establishment would cause significant environmental degradation, adversely impact adjacent areas, or adversely impact the land uses appropriate to the property.

Answer: Minimal to none. Mr. Goldberg stated that the SEQR process is underway and preliminary findings suggest little to no environmental impact.

- 3) Whether the applicant, prior to the effective date of this law, has incurred financial obligations to a lending institution, which, despite a thorough review of alternative solutions, the applicant cannot meet unless the application and approvals proceed.

Answer: Not at this time.

- 4) Whether the moratorium will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a

thorough review of alternative solutions, to earn a reasonable return on the property.

Answer: Significant impact, due to the complex legal agreement that includes the winding down of the existing business. The existing agreement between Mr. Nojaim and Stewarts Shops includes a strategic phasing down and eventual closing of the current active grocery store, with key milestones that must be met. If the store closes without a sale in place due to the moratorium, the income will stop and Mr. Nojaim will be responsible for the property taxes and insurance, as well as financial liability associated with terminating his wholesale provider contracts. It is estimated that the financial liability imposed on Mr. Nojaim could be upward of six figures.

- 5) The extent to which actions of the applicant were undertaken in good faith belief that the proposed business establishment would not lead to significant environmental degradation, undue adverse impacts on adjacent areas, or adversely impact the current and proposed land uses appropriate to the property.

Answer: Mr. Goldberg stated that the response from the community regarding the retirement of Mr. Nojaim demonstrates that he has always acted in good faith in regards to the community. Mr. Goldberg also stated that the current zoning laws allow the proposed use of 27 East Main, and under that premise, good faith efforts have been made to wind down the business and make all parties whole have been made. Also, the proposed project was designed under the existing design guidelines to ensure no adverse impact as well. The proposal is a code compliant project, and the moratorium undercuts all of the good faith efforts put forth.

In closing, Mr. Goldberg stated that considering those five criteria, the extraordinary hardship is apparent, Mr. Nojaim carries a severe financial hardship without the exception.

Mayor Murphy then opened the floor to the public, and stated that each speaker was allowed 3 minutes to comment. There were 15 speakers, three of which reside in the Village. Several speakers were in favor of the exception; however, many speakers did not address the topic of the meeting during their statements.

Speakers @ Public Hearing re: 27 East Main Hardship Exception

- |                     |                     |
|---------------------|---------------------|
| 1. Chad Nojaim      | Non-resident        |
| 2. Tom McHale       | Non-resident        |
| 3. Kyle Nojaim      | Non-resident        |
| 4. Jim Mather       | Non-resident        |
| 5. Rich Nojaim      | Owner, 27 East Main |
| 6. Bob Carlson      | Resident            |
| 7. Joan Hopkins     | Non-resident        |
| 8. Patricia Bishop  | Non-resident        |
| 9. Seth O'Brien     | Non-resident        |
| 10. Marlene Spencer | Resident            |
| 11. Karl Barner     | Non-resident        |
| 12. Pat Dailey      | Resident            |

- 13. Jake Hanford
- 14. Caleb Slater
- 15. John Horsington

Non-resident  
Unknown  
Non-resident

At the conclusion of the public comments, Mayor Murphy asked if there were any comments from the Board. Mayor Murphy and Trustee Curtin made statements regarding the hardship exception and the factors involved leading up to the hearing. Upon conclusion of the Board comments, Mayor Murphy made a motion to adjourn the public hearing, seconded by Trustee Curtin. Mayor Murphy called for a vote. All members voted aye and the hearing was adjourned at 8:00 pm.

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Charnley A. Abbott, Village Clerk

(SEAL)

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