

TOWN OF PINE PLAINS PLANNING BOARD

RESOLUTION APPROVING THE APPLICATION OF WILLOW ROOTS, INC. FOR A SPECIAL USE PERMIT FOR A MAJOR HOME OCCUPATION AT THE PREMISES LOCATED AT 23 NORTH MAIN STREET, PINE PLAINS, NEW YORK, TAX MAP ID NO.: 6872-14-380254 WITH CONDITIONS

WHEREAS, Willow Roots, Inc. has, by amended application dated December 21, 2020, sought a special use permit and site plan approval for a major home occupation (“food pantry”) for the premises located at 23 North Main Street, Tax Map No. 6872-14-380254, Pine Plains, New York (“subject property”) owned by Nelson Zayas and Lisa Zayas; and

WHEREAS, the Planning Board scheduled a public hearing on said application for January 13, 2021 at 7:30 p.m. and duly noticed the public hearing, as required by the Town Code and New York State law; and

WHEREAS, the public hearing was opened on January 13, 2021, at which time the Planning Board took public comment on said application and received, and reviewed, application materials, including a site plan and other documentation from the applicant; and

WHEREAS, during the course of the public hearing, several adjoining property owners, and other residents of the Town of Pine Plains submitted comments and documentation with regard to the proposed major home occupation.

NOW, THEREFORE, the Planning Board hereby makes the following findings of fact, conclusions of law and renders the following decision with regard to said application:

FINDINGS OF FACT

1. That the subject property is owned by Nelson Zayas and Lisa Zayas.
2. That Willow Roots, Inc. is a not-for-profit, 501(C)(3) corporation formed and existing pursuant to the Not-For-Profit and other laws of the State and Federal governments;

3. That the subject property is currently improved by a single family residence with a detached garage; and a separate accessory apartment unit for which the necessary approvals from the Town of Pine Plains Building Inspector/Zoning Enforcement Officer (hereinafter “ZEO”) have been obtained.
4. That Nelson Zayas currently operates a tax service business out of the residence as a minor home occupation in accordance with approvals granted to Mr. Zayas by the Planning Board in or about May of 2014.
5. That upon information and belief, the shares of stock in Willow Roots are currently owned by Nelson Zayas and Lisa Zayas.
6. That prior to the onset of the current Covid crisis, in response to the needs of certain residents of the Pine Plains community, Zayas commenced operation of a food pantry at the property, without obtaining approvals from the ZEO or Planning Board.
7. That the food pantry operation has continued, at increased capacity, in a response to the current Covid crisis.
8. That the stated purpose and mission of Willow Roots is to alleviate hunger and prevent food waste to the Town.
9. The food pantry does not have employees but relies on several volunteers to supplement its effort.
10. The food pantry has been operating once a week usually on Saturday mornings for approximately two hours commencing at 11:00 a.m. not including set up and take down.

11. The subject property contains two points of ingress and egress, one on North Main Street (a State road) and the other on Carla Terrace (a Town road). Both of these points of ingress and egress have received their respective approvals from the Town Highway Department and the Dutchess County Department of Public Works.
12. The food pantry distributes fresh fruits and vegetables, frozen and refrigerated foods, dry goods, pet food and clothing to those who arrive during the pantry's operation.
13. The food pantry operates by setting up pick-up stations onsite and the guests of the pantry enter the property off 23 North Main Street, collect food in their vehicles from the volunteers and exit the property via Carla Terrace.
14. It is estimated that on a typical Saturday morning 25 passenger vehicles utilize the food pantry.
15. Several neighbors of the property who live on Carla Terrace expressed concern about the pantry operation and the resulting flow of traffic on Carla Terrace which they feel is unreasonable.
16. The Pine Plains Police Department has reported no incidents, or problems, with the back-up of vehicles on North Main Street and no evidence was supplied during the course of the public hearing of any violations of law associated with the operation of the food pantry.

17. According to the applicants, the food pantry does not require any approvals from Dutchess County Health Department or the New York State Department of Health, and no permits have been issued by County or State Health Departments.

FINDINGS OF LAW

18. “Major Home Occupation” is defined in the Town’s Zoning Code as follows:

“Any nonresidential use conducted wholly or partly in a dwelling unit or accessory structure thereto by the owner of same, which is clearly incidental to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign and where customers, clients or sales representatives enter the premises and in which not more than three nonresidents are employed.”

19. Approval for a major home occupation is to be obtained from the Planning Board pursuant to the provisions of §§275-55(B) and 275-63 of the Code. In making its determination as to whether to issue a special use permit for the food pantry, the Planning Board is required to ensure the accomplishment of the objectives set forth in §275-55(B), which include, but are not limited to, findings that: (i) the use is compatible with adjoining properties; (ii) that adequate screening and separation distances to buffer the use from adjoining properties is provided; and (iii) that vehicular circulation shall be safe and adequate to serve the special use; and that the use shall not impact the character of the Town, the neighborhood or values surrounding the property.
20. In addition, the Planning Board must find that the proposed major home occupation complies with the requirements set forth in §275-56 of the Zoning Code including the criteria set forth in subsection (F) specifically with regard to major home

occupations.

21. In addition, the Planning Board, in making its decision, must consider the criteria set forth in §265-63 with regard to site plan approval.
22. The Town Code does not contain any limitations on the number of major home occupations which may be sited on a single property.
23. §275-55(F)(5) of the Code provides, in relevant part, that the Planning Board may impose conditions on the hours of operation of the home occupation business to protect abutting properties when making its decision.
24. The attorney for the Planning Board has advised the Planning Board that it possesses the necessary power to impose other conditions on the home occupation designed to mitigate the impact of the home occupation on the neighbors and surrounding communities and has the requisite power to require renewal of any special use permit after the issuance of the same.

DECISION

25. The Planning Board, after careful consideration of the criteria and objectives as set forth in the Town Code for the issuance of special use permits and site plan approval for major home occupations hereby grants special permit and site plan approval to the applicant, which shall run with the subject property, subject to the following conditions:
 - a. That any operations related to the food pantry shall occur no earlier than 10:00 AM if on a Saturday or Sunday and no earlier than 9:00 AM if on a Monday, Tuesday, Wednesday, Thursday or Friday. All operations shall terminate no later than 7:00 PM.

- b. That the distribution of goods shall be limited to no more than 3 hours on only one day a week.
- c. That operation of the facility may occur a reasonable time before, and after, the commencement and termination of distribution operations but solely for purposes of setting up the food pantry operation and closing the same.
- d. That no meals shall be prepared on site as part of the food pantry operation.
- e. That in the event it is determined that any permits are required for the operation of the food pantry either from the Dutchess County Department of Health or the New York State Health Department, such approvals shall be obtained by the property owners and food pantry operators and proof of such permit issuance shall be supplied to the Zoning Enforcement Officer.
- f. That during the period of operation, set-up and closure, the traffic entering and leaving the premises shall be controlled in a manner which reduces, to the fullest extent possible, impacts on neighboring property owners, and on vehicular or pedestrian traffic on North Main Street and Carla Terrace.
- g. That the operators will inform the community weekly, 24 hours before distribution operations commence as to the day and hours of distribution via Facebook and town website calendar and they shall also place temporary signage (such as a sandwich board) at the Carla Terrace Driveway notifying residents that the pantry will be operating tomorrow and what hours subject to the approval of the Zoning Enforcement Officer.
- h. In the event the hours of operation need to be expanded or substantively changed beyond the parameters established in this resolution, the property

owners shall notify the Zoning Enforcement Officer and, if recommended by the Zoning Enforcement Officer, an application shall be made to the Planning Board for modification of the hours of operation.

- i. There shall be no deliveries by trucks or other motor vehicles through the Carla Terrace entrance and such delivery trucks may not exit the property onto Carla Terrace.
- j. A volunteer shall be posted at the driveway ingress on North Main Street and at the driveway egress onto Carla Terrace during distribution operating hours to monitor the flow of traffic onto Carla Terrace and drivers shall be instructed to proceed at 20 mph when Carla Terrace appears safe and to make a full stop before entering onto Pioneer Drive.
- k. Temporary signage notifying users of these restrictions may be installed on the property subject to the approval of the Zoning Enforcement Officer.
- l. The property owners shall make an effort to stagger arriving vehicles and advise the drivers to pull off of the roadway onto the shoulder as much as possible in order to minimize congestion on North Main Street.
- m. The property owners shall be required to make application to the Planning Board at the expiration of twelve months of operation for a renewal of the special use permit and site plan approval, at which time the Planning Board shall determine, among other things, if there have been any violations of these conditions or reported problems associated with this home occupation. The Planning Board shall have the discretion to renew the special use permit for a period of time which it determines is appropriate. The Planning Board

shall conduct a public hearing in conjunction with such renewal permit.

- n. In the event of any violation of the terms and conditions of this approval or any other provision of the Town Code, or Vehicle and Traffic Law, the Zoning Enforcement Officer shall have the authority to issue a Notice of Violation to the property owners and/or Order to Remedy and in the event the violation is not remedied within the period specified by the Zoning Enforcement Officer, the Zoning Enforcement Officer shall have the right to take the necessary action to restrain the operation in accordance with the provisions of the Town Code and State law.

SEQRA DETERMINATION

- 26. The Planning Board determines that this is a Type II action under SEQRA which does not require environmental review. Notwithstanding those facts, the Planning Board has determined that the environmental impacts associated with this application have been properly addressed by the terms and conditions set forth herein.

The Planning Board members voted as follows:

Michael Stabile, Chairman _____

Vikki Soracco, Deputy Chairman _____

Ethan DiMaria, Alternate

Dick Hermans _____

Jayelle Hoffman, Alternate

Ken Meccariello _____

Kate Osofsky _____

Steve Patterson _____

Peter Salerno _____

The Resolution was carried by a _____ vote of the Planning Board members on _____, 2021.

**TRICIA DEVINE, PLANNING BOARD
CLERK, TOWN OF PINE PLAINS**

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