

City of Port Jervis, New York



ZONING BOARD OF APPEALS

July 7, 2015

Attendance

The following Board members were present:

Hermann Barth Tom Sexton
Lisa Randazzo Earl Miller

Absent: Tim Simmons, Dan VanKleeck, and Michael Roberts

Also present: Councilman Gerald Oney Jr, Attorney Robert Fink, Building Official Dave Rivera, and Planning Board Chairman Tom Vicchiariello

Regular Meeting

Deputy Chairman Barth called the regular meeting of the Zoning Board of Appeals (ZBA) to order in the Council Chambers, 20 Hammond Street, Port Jervis, New York on Tuesday, July 7, 2015 at 7:07 p.m.

Minutes of 6/2/15 approved

Motion by Mr. Sexton, seconded by Ms. Randazzo, to approve the June 2, 2015 minutes.

AYE: 4 ABSENT: 3 ABSTAIN: 0 NAY: 0 CARRIED

Public Comment

None at this time.

Old Business

No old business was discussed by the Board.

New Business

Mr. Vicchiariello stated there is issues that need planning and zoning board comments but Mr. Hendricks will discuss under council liaison report.

Planning Board Report given

Mr. Vicchiariello stated they did not meet last month but will be meeting this month and advised the board to read up on interpretation of recreation that is permitted under house of worship in the zone. Currently there is no interpretation on this issue and it will be brought before you.

Mr. Fink asked if this was something pending or a theoretical questions. Mr. Vicchiariello replied there will be a presubmission. Mr. Fink noted it can only act if there is a denial. Mr. Vicchiariello responded a resident is challenging a 1986 interpretation and needs zoning's decision on what is permitted in the zone. Mr. Fink explained the board has no jurisdiction unless there has been a denial or refuse to issue something.

Mr. Vicchiariello noted they may also be sending an application with controversial use issue in a SC zone.

Code Enforcement's Report given

Mr. Rivera noted the two applications pending for the planning board.

Council Liaison
report given

Mr. Hendricks discussed Local Law No. 4 of 2015 to adopt Orange County Greenway Compact. The public hearing will be set for the second council meeting in July with anticipation of passing it.

Mr. Fink voiced concern/question - the code for city as well as towns and villages require the planning board to render a report within a certain amount of time. There is nothing said about the zoning board of appeals reviewing or commenting on anything. He has always been hesitant to have the board do that because it could in fact, come before this board to interpret. The board should not give an opinion beforehand.

Mr. Hendricks stated he was supplying the materials to inform the board as indicated in the past, they were not made aware.

Mr. Vicchiariello added in 2003 the city adopted a similar comprehensive plan - Hudson Valley Greenway to encourage open space, waterfronts, preserving natural resources, tourism and both the planning and zoning board to promote the activity within city limits. Noted the difference between a Greenway Community and Greenway Compact.

Mr. Hendricks stated the city is applying for a CFA grant and part of the funds will be used for training for zoning and planning.

ZBA secretary read email message from Mayor's office regarding training for zoning and planning board members. The mayor is working with OC Planning Commissioner David Church to provide training either here or online.

Mr. Vicchiariello stated the county used to provide trainings for the area municipalities but stopped due to financial reasons. The city took the position that with the assistance of board attorneys and the knowledge of the board had they can opt-out of the annual training requirement as cities have allowed to. This year the mayor and council members have decided not to opt-out and require training for the members which equated to four hours a year. If this new local law is approved, there may be monies to help fund the trainings in the area.

Mr. Hendricks noted part of the grant they are looking to use would be to redo the master plan and add the waterfront district and businesses that support that.

Mr. Oney added redoing the master plan hasn't been looked at since 1989 with a cost of \$25,000. A presentation was recently conducted and the cost is closer to 80,000 - 100,000 in today's dollars. This is why we're applying for grants.

Mr. Sexton questioned the costs tax payers would incur and the tradeoffs that come along with it.

Mr. Oney listed several types of grants that have different requirements that had been researched by the committee.

Continuation of
Public hearing -
140 Jersey Avenue

Mr. Onofry, representing the applicant, stated the last few weeks there has been attempts to contact the owner of 5 Pennsylvania Ave LLC but has not received a response. The letter proposed three options:

1. Easement that would permit perpetual use.
2. Limited easement for the purpose of gaining access in tearing down the garage - a concern of the board - to create additional greenspace.
3. Limited easement for the purpose of egress onto the property.

Mr. Onofry noted Mr. Roberts had not been contacted as they were hoping for a response from the owner of 5 Pennsylvania Ave LLC. The owner also looked at the property on Front Street touching the back of their property which is vacant but there is no possibility of purchasing. There are no progress with easements for rear access of parcel. The applicant is seeking a variance for area, commercial use for first floor, and accessory apartment for second floor. Open to the idea of a single family home but it is not a permitted use in the zone. Does not know the board's stance on current proposal to jump from area variance to use variance.

Public Comment

Mr. Peter Boodaghian of Bergen County, NJ, 5 Pennsylvania LLC owner, asked to see the site plan.

Mr. Onofry noted issues Mr. Boodaghian had with a permanent easement for several reasons - to include resale value. So the question is will they be able to have a limited easement for the purpose of exiting onto the property for emergency purposes only. The problem with that option is how would it be policed. Mr. Roberts had not been contacted so he hasn't had the opportunity to contemplate. The reason for an easement is for the potential accessory use under a mixed-use structure. The concern was if there is a fire in the front, can they run out the back, and if they run out the back, where do they go? The back is a fenced in area and they cannot hop the fence. If easements are agreeable, there are considerations to be agreed upon.

Mr. Joe Curtis, 7 Ferguson Avenue, suggested tearing the shed down and put a fence with gate in the back. Does not believe Pete will give him a problem with using the space for emergency access in the event of a fire.

Mr. Sexton proposed the public hearing is held over a month since all the necessary persons involved are here.

Mr. Keith Brown, 136 Jersey Ave owner, stated inaccurate information had been given out. Mr. Ritchie was cited in a local newspaper stating the neighbors had been approached and the owner had been unable to obtain title or easement. Neither he nor Mr. Roberts had been contacted by the owner. The property was sold on auction online, as is, where is because the bank knew it was a whale. There are a lot of issues with property - buyer beware. A white elephant is a white elephant.

Mr. Barth questioned Mr. Brown if it was better for the property to have someone in it or be empty. If we grant the variance, there is someone in there taking care of property.

Mr. Brown responded that he was bidding to buy with intent to tear down and put parking and make Jersey Avenue a better place.

Mr. Richards Roberts, joint owner with wife of 142 Jersey Avenue, stated buyer beware, do your due diligence. Discussed the bidding price paid at 21,700 and the problems with illegal apartment downstairs and cars and trucks parking at Family Dollar parking lot. The property is not currently being maintained, grass is not cut, salt thrown in the winter and it still has not been swept up now that summertime is here. How is the property going to be maintained? Cannot maintain the sides of the structure because he will have to go on Keith's and my property. Additionally, there are issues with tonight's approved minutes. His name was mentioned and he had not been contacted.

Mr. Onofry replied that he was told by the board that he (Mr. Roberts) was approached. Mr. Roberts stated he should have been approached by the owner or attorney. Mr. Onofry responded it was misinformation. Mr. Roberts noted it was in the minutes and needs to be corrected.

Mr. Rivera stated he had conversation with both parties to discuss that but it had not occurred.

Mr. Roberts expressed he was upset his name was used by chairman when he stayed out of it. He added the only issue he had was with the illegal first floor apartment in a CS zone back in February. Once you start approving things, how do we hold applicant to what you ask him to do? Parking is a major problem.

Mr. Curtis commented according to the law, in order for a property to lose its non-conforming status it has to be vacant one year. If it is not empty for one year it does not matter it does not lose its non-conforming status. Mr. Onofry responded it had been vacant beyond a year.

Mr. Curtis stated he works with his tenants and neighbors and they (Brown/Roberts) should put pressure for owner to maintain property but should not tell him that he has to tear it down. It is wrong and not the American way.

Mr. Onofry asked for a continuation, so he can address two potential groups. He apologized for the misinformation and it was not his intent to mislead the public or the board. He will speak to his client about selling the property as well.

Mr. Sexton addressed Mr. Roberts and noted as far as Mr. Simmons comments, it was Tim looking after your back.

**Public hearing
extended**

Motion by Mr. Sexton, seconded by Mr. Miller to hold the public hearing for 140 Jersey Avenue application for one month.

AYE: 4 ABSENT: 3 ABSTAIN: 0 NAY: 0 CARRIED

Adjournment

Motion by Mr. Sexton, seconded by Mr. Miller, to adjourn the meeting at 7:54 p.m.

AYE: 4 ABSENT: 3 ABSTAIN: 0 NAY: 0 CARRIED

The next meeting is scheduled for Tuesday, August 4, 2015 at 7:00 p.m.

*Respectfully submitted,
JoAnne Gordon-Burton, Secretary*