

# City of Port Jervis, New York



## ZONING BOARD OF APPEALS

June 2, 2015

The following Board members were present:

**Attendance**

Tim Simmons                      Michael Roberts  
Tom Sexton                        Dan VanKleeck  
Lisa Randazzo                    Earl Miller  
Hermann Barth

Also present: Council Liaison Bob Ritchie, Attorney Robert Fink, Mayor Kelly B. Decker, Building Official Dave Rivera, and Planning Board Chairman Tom Vicchiariello

Continuation  
Public Hearing  
held—  
140 Jersey Avenue

<p>Hazma Warriach 140 Jersey Avenue SBL: 14-10-22 Variance for lot area, lot width, side yard setback, &amp; parking spaces for a first floor office &amp; second floor apartment</p>
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Mr. Onofry, representing applicant, stated all the variances sought with the biggest issue being parking. Discussion were had with adjacent owners to sell the property but nothing came about. There is no opportunity to expand and gain additional lands which creates no room for parking. The only way to move forward is with the variances. In conducting research, the neighboring properties did not comply with the zone and variances were sought and granted after the fact. This parcel fits within the character of neighborhood. The building to the left has a residence over it and the one to the right does not. Mr. Onofry continued there are businesses on first floor with residences on second floor with no parking on the same block. The property is zoned in a manner that you have to use first floor as commercial and second floor for an apartment. There can be a disclosure to tenants that there is no parking and let them to decide to rent or not. Mrs. Hylas addressed her concerns but no interest was given to rent any of the spots. The only option is to use city's lots and pay the city fee or the landowner can find someone that doesn't need a car. There are tenants that don't have cars.

Mr. Fuller added the applicant proposes constructing a ramp to the covered porch and for garbage accommodate an enclosure in the front underneath the porch. The garbage can be easily contained and put out on curb side.

Mr. Simmons read a letter from Kathy and Michael Hylas and an email from Keith Brown. Both on file.

Mr. VanKleeck questioned the egress from the back. Mr. Onofry replied it is code enforcement issue not a zoning issue and urge the board to focus on the variances, and noted all of Mr. Brown's concerns have been addressed.

Mr. Vicchiariello inquired if there is any intent to remove the garage and add greenspace. Mr. Fuller stated the garage is in fair condition but will need to discuss with owner to remove it.

Mr. Onofry noted one way to escape from rear of parcel is with the removal of garage and the other possibility is to talk to Mr. Roberts with the expense of 140 Jersey Avenue and change the gate and spill out to the driveway for emergency purposes only.

**Close Public Hearing**

Motion by Ms. Randazzo, seconded by Mr. VanKleeck, to close the public hearing.

AYE: 7 ABSENT: 0 ABSTAIN: 0 NAY: 0 CARRIED

**Regular Meeting**

Chairman Simmons 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, June 2, 2015 at 7:23 p.m.

**Minutes of 5/5/15 approved**

Motion by Mr. VanKleeck, seconded by Mr. Barth, to approve the May 5, 2015 minutes.

AYE: 6 ABSENT: 0 ABSTAIN: 1 (Simmons) NAY: 0 CARRIED

**Public Comment**

Mr. Decker, mayor and resident of Port Jervis, raised some concerns regarding a similar issue with Joe's Barbershop down the street that had to close due to lack of handicap ramp and is now a vacant building. Concerned with several commercial properties that are empty and now we are going to add another one. Also parking is going to be limited in the area during the day. .

**Discussion of Public Hearing held—  
140 Jersey Avenue**

Mr. Barth noted he is concerned with parking and the people living upstairs. If something happens to that building, there are not coming out. Mr. Fuller noted there is front egress. Mr. Barth stated there is no side or rear egress. If the fire is in the front, where are they going? Mr. Onofry replied it is a fire code issue.

Mr. Simmons suggested the board hold the public hearing open so outstanding issues can be cleared up. He has heard that Mr. Roberts is not happy about certain things and this could allow time to remediate

Mr. Onofry stated objections are fine but asked for solutions. They are willing to address Mr. Brown's concerns and any concerns Mr. Roberts may have but none have come forward formally by way of email or otherwise. Willing to discuss a concept for egress if necessary.

Mr. VanKleeck asked if the applicant is willing to just have a business downstairs and forgo the apartment upstairs. Mr. Fuller responded that it is a pre-existing two story structure, should the second story remain empty? Mr. VanKleeck stated the top and bottom can be commercial use. Mr. Fuller noted there is no difference for egress for commercial or residential. The concerns will still be the same, whether it's commercial or residential regarding parking.

The board agreed parking is an issue. Mr. Sexton stated the area, width, and length is what it is, by getting rid of garage, it will open up footprint of lot a bit. (Sexton)

Mr. Onofry reiterated the board's comments for clear direction that it was leaning towards demolish of the garage and an acquisition of easement onto adjacent parcel for emergency purposes.

The Board reviewed the statutory criteria for the variance:

1. Will an undesirable change be produced in the character of the neighborhood and a detriment to nearby properties be created by the granting of the variance?
  - o No, there are similar variances granted in the area.
2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than the variance?
  - o No, a variance is necessary.
3. Is the requested variance substantial?
  - o Yes.
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
  - o No, it is consistent with the area and the use is a permitted use in the zone.
5. Is the alleged difficulty self-created?
  - o Yes, it is subject to existing zoning regulations.

Mr. Onofry noted no matter what the board decides, he will contact the client to gain some type of egress.

Motion by Mr. Sexton, seconded by Ms. Randazzo, to declare the Port Jervis Zoning Board of Appeals lead agency and the application constitutes an unlisted action under SEQR with no adverse environmental impact.

AYE: 6 ABSENT: 0 ABSTAIN: 1 (Roberts) NAY: 0 CARRIED

Motion by Mr. Miller, seconded by Mr. Sexton to grant the application as advertised

AYE: 3 (Randazzo, Miller, Sexton) ABSENT: 0 ABSTAIN: 1 (Roberts)  
NAY: 3 (Simmons, Barth, VanKleeck) DENIED

Pre-Submission(s)	There were no pre-submission before the Board.
Old Business	No old business was discussed by the Board.
New Business	No new business was discussed by the Board.
Code Enforcement's Report given	Nothing to report at this time.
Council Liaison report given	Mr. Ritchie stated last couple of meetings the residents complained about sewer fee due to a clerical error in first quarter billings for multifamily housing. Another item that might go before code is the waste bags. DPW has found hypodermic needles, pet feces, rocks and bricks with the grass and leaves. At the IDA meeting the 100 Pike Street Plaza was brought up and there was a scheduled conference call with Bill Paladino. The mayor spoke with him prior to the conference call and initially there was a problem with the roof but guaranteed him by the end of July there will be businesses in that building.  Mr. Barth asked about leaf and grass clipping pickup. Mr. Ritchie responded the dump is open the second and fourth Saturdays of the month and curbside pickup will correspond with cardboard/paper pickup - once a month.

**Planning Board report given** Mr. Vicchiariello stated 130 West Main Street finally came to the board and there were a lot of conditions placed on it - drainage, security, relinquish curb cuts, and add greenspace.

**Public hearing deliberations** The Board deliberated the decision to rescind the vote and reopen the public hearing and asked the applicant to speak to neighbors about easement and demoing garage.

**Public hearing reopened** Motion by Ms. Randazzo, seconded by Mr. Miller to reopen the public hearing at 8:14 p.m.

**AYE: 7 ABSENT: 0 ABSTAIN: 0 NAY: 0 CARRIED**

Motion by Ms. Randazzo, seconded by Mr. Miller to rescind the vote denying the variances for 140 Jersey Avenue and continue the public hearing.

**AYE: 7 ABSENT: 0 ABSTAIN: 0 NAY: 0 CARRIED**

**Adjournment** Motion by Mr. Barth, seconded by Mr. Sexton to close the meeting at 8:16 p.m.

**AYE: 7 ABSENT: 0 ABSTAIN: 0 NAY: 0 CARRIED**

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

*Respectfully submitted,  
JoAnne Gordon-Burton, Secretary*