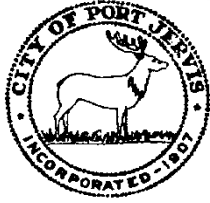


City of Port Jervis, New York



ZONING BOARD OF APPEALS

August 4, 2015

Attendance

The following Board members were present:

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

Absent: Earl Miller

Also present: Attorney Robert Fink, Council Liaison Bob Ritchie, Asst. Building Official Laurie Powrie, Mayor Kelly Decker, Councilman Stanley Siegel, and Planning Board Chairman Tom Vicchiariello

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, August 4, 2015 at 7:02 p.m.

Minutes of 7/7/2015 approved

Motion by Mr. Sexton, seconded by Mr. Barth, to approve the July 7, 2015 minutes.

AYE: 6 ABSENT: 1 ABSTAIN: 0 NAY: 0 CARRIED

Public Comment

None at this time.

Old Business

None.

New Business

None.

Planning Board Report given

Mr. Vicchiariello reported the presubmission for Salvation Army was not accepted. The primary use of two parking lots was upheld and there as needed. It was not within rights to limit the two parking lots for accessory uses - example recreation for youth groups, yard sales, summer school, etc.

Orange & Rockland received a six month extension for the Park Avenue project.

Code Enforcement's Report given

Ms. Powrie reported there is no presubmission for next month at this time. More applications may be coming with the vacant building registration process is well underway. As a result seeing more of these properties listed for sale. Many have lost 2 family or more status they could possibly come to zoning in future for area variances.

Council Liaison report given

Mr. Ritchie reported the council has been working hard with the CDA regarding grant applications which were successfully submitted.

IDA - Future Home Technology/Excel broke the pilot agreement. No activity since Excel took over, in turn the council authorized corporation counsel to send a letter. If there is no resolution, the council will move forward.

Skydyne met with Mayor regarding their pilot agreement for a possible expansion.

Bluestone issue was discussed at length. Bids had been requested from other companies. Monday is the next council meeting for people to come and voice their opinion on the Church Street steps.

Continuation of
Public hearing -
140 Jersey Avenue

Mr. John Fuller, representing applicant, stated the unresolved issue is the safety of the occupants on the second floor.

Mr. Onofry, representing the applicant, stated he spoke with owner of 5 Pennsylvania Avenue and is open to an easement. Applicant wants to invest and use property. The primary issue raised is where would the occupants go and if there was a reasonable condition of any approval indicating there has to be emergency access. There are no firm terms with Mr. Boodaghian. He will not allow for a permanent easement or anything that will bind his property. Regarding the demolition of the garage if it can't be saved, he (Onofry) will do his best. His client is not interested in selling the property to the neighbors. As for the neighbors not wanting him on their property, he can petition the court to gain access for a set period of time to maintain his property. He hopes that it is not necessary. The neighbor to the left got a variance and pretty sure the building to the right got a variance because it did not conform. If it is not approved, there is no doubt applicant will be seeking a use variance. In May 2013, 165 Jersey Avenue was granted a use variance. Strongly urge the board to allow the applicant to invest in the property and bring it back to life. Hopefully, a relationship with the neighbors can be established.

Mr. Fink noted they are no further along than last month. Mr. Onofry asked for the board to make a decision.

Mr. Simmons stated the neighboring properties received variances based on their properties. They did not have to rely on others to solve their issues, while it appears this applicant does. Mr. Onofry responded that there are no problems. Questioned the chairman that the need for a variance is a problem.

Mr. Vicchiariello asked Mr. Fuller if the handicap ramp in the front will fit and if it is within the setbacks. Mr. Fuller replied yes and it will be part of the setback.

Mr. Simmons asked if that is permissible. Mr. Fuller stated the setback is 7 ½ ft. and the ramp will be part of that setback. Mr. Fink stated this reduction was not part of the application and asked what the actual reduction was. Mr. Fuller replied 7 ½ ft. to 2 ft. Mr. Barth asked if it would cut the sidewalk. Mr. Fuller stated no.

Mr. Barth inquired about parking. Mr. Fink stated it is part of application, six spaces are required, zero are provided.

Public Comment

Mr. Stanley Siegel stated Mr. Roberts had asked him to address the board and relay that as of 6:45 p.m. today, the owner/applicant has not approached him with any conversation. Mr. Onofry noted he does not have to.

Mr. Kelly Decker inquired if there had been conversations with the other side (Mr. Brown). No.

Mr. Decker asked if there is off street parking as both neighbors have off street parking. No.

Public hearing closed

Motion by Ms. Randazzo, seconded by Mr. Roberts to close the public hearing for 140 Jersey Avenue application.

AYE: 6 ABSENT: 1 ABSTAIN: 0 NAY: 0 CARRIED

Public hearing discussion

Mr. Sexton mentioned businesses in the area with similar issues - no parking to include the tanning salon and bike shop.

Mr. Barth asked if a condition can be placed with the owner of 5 Pennsylvania Avenue. Mr. Fink stated you are either going to grant or deny based upon what you have.

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. Previously board decided no.
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.
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's an existing building.
5. Is the alleged difficulty self-created?
 - o No, he purchased the property subject to zoning.

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: 5 ABSENT: 1 ABSTAIN: 0 NAY: 1 (VanKleeck) CARRIED

140 Jersey Avenue denied

Motion by Mr. Sexton, seconded by Ms. Randazzo to approve the application as advertised with modification of front yard setback reduction of 7 ½ ft. to 2ft.

Randazzo - AYE Sexton - AYE Barth - AYE Miller - ABSENT
Simmons - NAY VanKleeck - NAY Roberts-ABSTAIN

3 AYES, 2 NAYS, 1 ABSTAIN, 1ABSENT

Motion DENIED

Adjournment

Motion by Mr. Roberts, seconded by Mr. Barth, to adjourn the meeting at 7:42 p.m.

AYE: 6 ABSENT: 1 ABSTAIN: 0 NAY: 0 CARRIED

The next meeting is scheduled for Tuesday, September1, 2015 at 7:00 p.m.

*Respectfully submitted,
JoAnne Gordon-Burton, Secretary*