

City of Port Jervis, New York



ZONING BOARD OF APPEALS

March 15, 2016

Attendance

The following Board members were present:

Tim Simmons	Hermann Barth
Michael Roberts	Tom Sexton
Earl Miller	Dan Aumick

Absent: Lisa Randazzo

Also present: Attorney Robert Fink, Building Official Dave Rivera, Councilman Liaison Stanley Siegel, Fire Inspector Mike Reilly, and Planning Board Chairman Tom Vicchiariello

Public Hearing

<p>KBX Holdings LLC 33 East Main St & 29 Elizabeth St SBL: 8-10-1, 8-10-2 Parking variance</p>
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Mr. Simmons read the public hearing notice.

Mr. Fuller, civil engineer representing the applicant, stated the purpose of the application is for a parking variance for the original KFC property. The applicant intends to put in a new restaurant. The property adjacent on Elizabeth Street was purchased to add more parking spaces. The ordinance requires one parking space for every 75 sq. ft. of gross floor area. 31 parking spaces are required. With the adjacent lot, the applicant has 16 parking spaces. The vast majority of floor space is more than 50% kitchen/storage space and 650 net sq. ft. Zoning does not differentiate between gross and net

Mr. Fink asked how many parking spaces would be required if it were net. Mr. Rivera noted 8.2 spaces.

Mr. Mike Glicksman stated he owns the adjacent property, 27 Elizabeth St (two family) and was shocked to see all the foliage and natural screening was gone and replaced with a gravel parking lot and cars parked two inches away facing his back yard. The yard is now visible from East Main Street and there is no longer a noise barrier. No notification was provided and questioned the building official if this can be done.

Mr. Joseph Kaczowski, 25 Elizabeth St, stated he is a retired school teacher and recalls many of his academically challenged students working at KFC and was thrilled to see they had working opportunities. Really excited to see a restaurant come in and bring jobs in the area that is much needed.

Mr. Siegel stated the mayor previously spoke on the matter. The logic of this zoning is not understood and it will be reviewed by the code committee.

Close public hearing KBX Holdings LLC

Motion by Roberts, seconded by Mr. Sexton to close the public hearing.

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

Discussion of public hearing

Mr. Fuller noted there is a proposed privacy fence between the two properties.

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?**
 - No.**
- 2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than the variance?**
 - No.**
- 3. Is the requested variance substantial?**
 - Yes because of code.**
- 4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**
 - No.**
- 5. Is the alleged difficulty self-created?**
 - Yes.**

Motion by Mr. Sexton, seconded by Mr. Barth, 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: 1 ABSTAIN: 0 NAY: 0 CARRIED

KBX Holdings LLC approved

Motion by Mr. Aumick, seconded by Mr. Miller to approve the application as advertised.

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

Continuation public hearing Schneider

**Estate of Laura J. Schneider
 10 Minisink Avenue
 SBL: 20-5-6
 Lot area variance to allow for a two family dwelling in the R-2 zone**

Mr. Fuller stated in support of application, questions raised from previous meetings have been answered with updated maps.

- The property is in R2 zone and caddy-corner from Minisink Apartments.**
- 2 and 4 Wright Street are two family dwellings directly across the street on smaller parcels.**
- Requesting two family classification for lot area specifically.**
- Photograph of driveway demonstrating adequate space.**
- The applicant has replaced the roof on garage and is structurally sound.**
- Photograph of additional parking illustrates availability on lot to accommodate a two family residence.**
- The existing lot depth, front yard, and rear yard are pre-existing deficiencies for either a single or two family which run with the land.**
- A two family requires 12,000 sq. ft. area, a single family 6,000 sq. ft. area but the lot has 9,700 sq. ft. area.**

Mr. Randy Coffill added it is immediately adjacent to the SC zone.

Mr. Siegel noted the mayor spoke on this application too and the city is working towards more home ownership. They would be against changing it to a two family

Public hearing
closed (Schneider)

Motion by Mr. Barth, seconded by Mr. Aumick to close the public hearing.

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

Special Meeting

Chairman Simmons called the special meeting of the Zoning Board of Appeals (ZBA) to order in the Council Chambers, 20 Hammond Street, Port Jervis, New York on Tuesday, March 15, 2016 at 6:32 p.m.

October 5, 2015
minutes approved

Motion by Mr. Roberts, seconded by Mr. Barth to approve the October 5, 2015 minutes

AYE: 5 ABSENT: 1(Randazzo) ABSTAIN: 1(Aumick) NAY: 0 CARRIED

Motion by Mr. Roberts, seconded by Mr. Barth to approve the January 5, 2016 minutes.

AYE: 4 ABSENT: 1(Randazzo) ABSTAIN: 2 (Aumick, Simmons) AY: 0 CARRIED

Motion by Mr. Roberts, seconded by Mr. Barth to approve the February 2, 2016 minutes.

AYE: 4 ABSENT: 1(Randazzo) ABSTAIN: 2 (Aumick, Miller) NAY: 0 CARRIED

Discussion of
public hearing
Schneider

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 Yes. Mr. Coffill noted there are other rentals in the neighborhood.
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.
5. Is the alleged difficulty self-created?
 - o Yes.

Motion by Mr. Sexton, seconded by Mr. Barth, 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: 1 ABSTAIN: 0 NAY: 0 CARRIED

Motion by Mr. Roberts, seconded by Mr. Miller to approve the application as advertised.

AYE: 0 ABSENT: 1 (Randazzo) ABSTAIN: 1 (Aumick) NAY: 5 (Roberts, Barth, Sexton, Miller, and Simmons) DENIED

Old Business None.

New Business None.

Planning Board Report given None.

Code Enforcement's Report given None.

Council Liaison report given Mr. Siegel reported the following:

- **Dog law strengthened.**
- **Imposed a transfer tax for every \$2/\$1,000 on houses purchased in the city.**
- **A written disclosure will be provided when a property loses its multifamily status.**
- **Created a waiver of residency.**

Adjournment Motion by Mr. Barth, seconded by Mr. Roberts, to adjourn the meeting at 6:57 p.m.

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

The next meeting is scheduled for Tuesday, April 5, 2016 at 7:00 p.m.

Respectfully submitted,

JoAnne Gordon-Burton, Secretary