

ZONING BOARD MEETING
TUESDAY – FEBRUARY 24, 2015
ZONING BOARD
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman
Messrs. Doolittle & Grannis
Ms. Kinne, Alternate

ALSO PRESENT: Donald G. Walls, Esq. - Town Attorney
Michael Pecha, Ordinance/Code

ABSENT: Messrs. Ruston & Waskie, ZBA Members
Jim DiMascio, Councilperson

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Doolittle read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Doolittle noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Doolittle also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

APPROVAL OF THE MINUTES

- Approval of the Minutes for January 27, 2015, Zoning Board Meeting.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, to approve the Minutes of the January 27, 2015 Regular Meeting.

ROLL CALL: AYES – 4 NAYS – 0

PUBLIC HEARINGS

- IFFAT CORP – Mohammad A. Majeed – 36 Clark Ave. – TM#112.06-3-14.2 –
Application for a Use Variance to allow a two family residence in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls understand you have a two family at 36 Clark Ave.

Mr. Majeed said yes.

Mr. Walls did you build the structure?

Mr. Majeed explained no it was probably built in the late 50's and was purchased about ten or eleven years ago. The structure above the garage is a one bedroom with bathroom. Was there when we bought it. Doesn't know when apartment was built but it was there when he purchased. He was treating the apartment as an independent unit. The house was in bad condition and he has remodeled it which took a few years. Found that proper permission was not taken for the garage apartment. If there are objections, hope there are none, but will satisfy them. Everything will be done by the code. Once Mr. Pecha says it's approved we'll do whatever is required according to the code – heating system, plumbing system, electrical system – we will do everything.

Mr. Walls is the apartment occupied?

Mr. Majeed said no.

Mr. Walls do you have engineered plans?

Mr. Majeed yes everything was submitted by an architect.

Mr. Walls have you had any inspections – electrical, plumbing?

Mr. Majeed no because once this is approved (variance) then Mr. Pecha will come into the picture – informing us as to what needs to be done. Want to make sure everything is done to code.

Mr. Walls were you aware that the structure was in violation when you bought it?

Mr. Majeed no he was not aware that he was in violation.

Mr. Walls you learned that afterwards?

Mr. Majeed learned about it two and a half years ago.

Mr. Walls you purchased it eleven years ago?

Mr. Majeed that is correct.

Mr. Walls since you bought it have you renovated or improved it?

Mr. Majeed yes we did improve it thinking that it was kosher. We put in a new floor and

electric. The house and apartment were abandoned 2½ - 3 years when we purchased. We needed to redo everything.

Mr. Walls do you live there?

Mr. Majeed no this is a rental.

Mr. Walls you're asking for a use variance because a two family is not allowed in this particular residential zone. Do you understand that?

Mr. Majeed was not aware of that.

Mr. Walls if this Board turns you down what financial impact would you suffer?

Mr. Majeed we've invested a lot of money – renovations. Naturally renting it as a single family instead of a two family we'd have financial loss. All these years we've been renting without the knowledge of this. There was no complaint from the neighbors.

Mr. Walls the unit that's improved it's a one family?

Mr. Majeed yes.

Mr. Walls please describe it again.

Mr. Majeed it's above the garage with separate set of stairs – one entrance from the back and the other right next to the garage. When you enter there's a living room, half can be turned into a bedroom, a full kitchen and full bathroom. Good heating system. Everything that's required is there.

Mr. Walls do you live in the area?

Mr. Majeed no he lives in Hancock. We have several rental properties. We make sure the properties are presentable. If there are complaints we try to remedy it quickly.

Mr. Walls anything else you'd like to tell the Board before I take questions?

Mr. Majeed no.

Mr. Phil Smith 20 Newman Ave. currently this three street area – Jewell, Newman and Clark – is zoned single family residential. There are three rentals on his street and he doesn't like it. They leave there junk out, don't mow the yards. There's a reason it's residential.

Mr. Richard Dubrava, 28 Clark Ave. has lived there for 55 years. Has seen a lot at 36 Clark

Ave. – no offense to this gentlemen that owns it – has seen State Police, Sheriff. If you check with the police there is a long list of complaints even in the last six months. He's only two houses down the road. Would like to see Chenango Bridge remain like the Andy Mayberry town – keep it that way. Let the kids play – keep it clean.

Ms. Pam Van Ornam 52 Clark Ave. this gentlemen said he's owned it for 11 years and just recently started to upgrade it. It is a bad looking property and has been for quite a while. The financial hardship on him has happened – should have been using it all along to turn it into a two family. When you have nothing but one family homes all around – keep it a one family. I'm not opposed to the renting, but she doesn't live next door. Doesn't know all the problems going on.

Ms. Debbie Alt 24 Clark Ave. is new to the area (2 years ago) purchased the property as the area was residential – can have her grandchildren over and didn't have to worry. Having this parcel being upgraded to a two family rental – there are rentals up and down our street. Our street is all single family. Changing it into a two family making the area more commercial will possibly ruin the family atmosphere. Potential buyers coming into the area when they are looking and see rentals/two family will depreciate the value of our properties.

Mr. David Conklin 35 Newman Ave. lived there 20 years. Since this property has been bought it has been the worst of the times. We've had horrible people live there – had to call the police several times. There has been structural problems, garbage stored in the sheds – look up the complaints they will be there. Rarely is the lawn kept up, usually a foot high before its mowed. He has a lot of money invested in his property and would not like to see this happen.

Mr. Greg Mochler 27 Newman Ave. agrees with Dave – property is terribly maintained. Only time they get anything done there is when they are forced to do it. There is a shed on the property that's falling down – kids playing on top of the shed during the winter time. He's talked to Mr. Pecha and he got them to tear it down. Shed is gone but there is still garbage all over. It's really not maintained very well. He is against it.

Mr. Rob Flynn 19 Jewell Ave. Mr. Majeed said there was already preexisting apartment there. It was an illegal apartment. He bought it knowing the zoning ordinance or as the buyer should have looked into the zoning regarding the area. The deed will have specifics as well so his financial hardship saying he had this ahead of time – that shouldn't apply. He should have known going into the purchase what he had. Additionally he talks about financial loss – neighbor's around are single family. We bought them as single families – we bought them to maintain a sense of community. We risk losing certain financial value of our homes seeing this converted to a multi home (two family). He may have financial losses but the whole community loses if it goes to a two family. The apartment for rent there's an apartment complex on Kattelville Road – are those to capacity? There are single family residents being rented in our neighborhood that are vacant. We really don't have a market for rentals so financially it's not profitable to rent but to maintain it as a single family.

Mr. William Paugh 22 Newman Ave. agrees with what Bob said. Owner spoke he owns the property for eleven years. I know as I have friends behind his property – this property has been an absolute eyesore – shed etc.

Mr. Mike Linville 39 Clark Ave. it's been a rental property for 35/40 years. The garage apartment was there when it was built. If he comes up to code and cleans the property up – if he checks his tenants better he wouldn't have much trouble. Rather see rented than vacant so the property stays maintained.

Mrs. Irene Linville 39 Clark Ave. this man has done a good job. We live across the street and yes he's had bad tenants. When we talked to him he took care of it. Now he has very nice people living there – they've been great neighbors. Willing to help anyone – they helped us this winter.

Mr. Phil Smith this is to make this into a two family rental?

Mr. Walls correct.

Mr. Phil Smith you can rent a house in this area but a two family is not allowed.

Mr. Walls correct.

Mr. Majeed what the gentlemen said was true. The last tenant was really bad. She brought trash from all over – evicted her. The shed was demolished and he can assure that once the snow is gone it's clean. The exterior of the house was painted. Currently it's nicely kept. Mr. Pecha knows that what was required by code was done.

Mr. Walls closed the Public Hearing

Mr. Pecha, Ordinance Office recommends upon satisfactory response to the Town Engineer's concerns, approval of the use variance to allow a two family residence in a residential zone, with a building permit and professionally drawn/signed building plans being required with inspections, approved certificate of occupancy before any occupancy and bringing the property maintenance issues into compliance.

Mr. Phillips, Chairman ZBA, what do you envision this one bedroom apartment. What type of tenant? Knows there are restrictions on how you select.

Mr. Majeed we had some students living there.

Mr. Phillips asked Mr. Pecha is there room for off street parking?

Mr. Pecha the left side of the driveway needs to be worked on. There are property maintenance problems beyond the apartment itself.

Mr. Phillips read the following correspondence.

Town Planning recommends a favorable advisory

Urda Engineering recommends a favorable advisory with the recommendation that the following comments be addressed prior to occupancy –

- Applicant shall coordinate with the Building Department/Code Inspector prior to completing any additional modifications.
- Building permit is required for any modifications to be made.
- Inspection by the code Inspector is required for the structures to bring the existing structures into compliance with the building code.
- Electrical inspection may be required for electrical installations made without a permit.
- code Officer will also confirm any property maintenance concerns with respect to the associated Town & Building codes.
- Applicant is to assure there are adequate parking spaces on the premises per Town Code to support the two residences (two per residential use).

- GREEMAN-PEDERSEN, INC. – Patrick Kenneally – 108 Theresa Blvd. – TM#112.22-1-6 – Special Permit to operate a professional business out of a residential townhouse unit in a PDD-RII zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls asked if the property in question is 108 Theresa Blvd. and is it a single family home?

Mr. Andy LaPolt explained 108 Theresa Blvd is the location and it was a townhouse.

Mr. Walls wanted to know if he owned it.

Mr. LaPolt explained that he didn't but that Greenman-Pedersen owned it. He occupies it during the week. He's the manager of the construction inspection forces in Region 9. We bought the townhouse three years ago and shortly after we got the construction inspection for Prospect Mountain project. He does business from the townhouse in a management capacity – housed there during the week. Oversees about 20-40 construction inspectors for the six counties in Region 9. We're not changing anything with the townhouse. NYSDOT changed the criteria for calling it an office. We meet all criteria except for the criteria stating we have to meet all local

codes so we're trying to dot our i's and cross our t's. We don't want to get ourselves in trouble when bidding for projects. That's why we applied for this variance.

Mr. Walls in other words your company didn't want to continue the situation unless they had permission from the local municipality. Tell us the type of business you operate.

Mr. LaPolt explained Greenman-Pedersen is a consulting engineering company. We have about 1200 employees – we do design and construction inspection. This townhouse was provided for his occupancy so minimal work comes out of there by others. All the people are in the field – in field offices – no one is housed there except for myself and maybe one or two others. We don't do design service from this office. Design service would require people to be at the residence.

Mr. Walls do you have office space?

Mr. LaPolt there is a small space within the townhouse which is about 80/90 square feet that I use for office space.

Mr. Walls is the rest of the townhouse residential ?

Mr. LaPolt yes.

Mr. Walls you live there and occasionally someone else?

Mr. LaPolt usually just myself. I may have a new employee stop in to fill out paperwork before they go out in the field.

Mr. Walls do you have a map room or phone bank?

Mr. LaPolt I have a phone and a desk area which is about 8' x 13'. I have provided a drawing of the interior in my application.

Mr. Walls how much traffic goes in and out?

Mr. LaPolt he is the primary person residing there and on an occasion another person. During the winter he's not there as most of his people are laid off from working in the field.

Mr. Walls so you go home on weekends?

Mr. LaPolt that is correct.

Mr. Walls where do you park?

Mr. LaPolt in the driveway.

Mr. Walls do you receive any deliveries or have any signs advertising your business?

Mr. LaPolt no to both questions.

Mr. Walls is this going to be a permanent situation or temporary as long as the job lasts?

Mr. LaPolt what we are asking for is we have approximately four years left on our work in Region 9. We ask to allow it until we sell the property. The intent was to use the property until our work is done here. If our business expands to afford us where we needed more overhead for employees then we would find a more commercial facility.

Mr. Walls eventually when the job is finished you'd sell the property?

Mr. LaPolt that is correct.

Mr. Walls is there anything else you'd like to tell the Board?

Mr. LaPolt would like anyone here that's his neighbor he thinks he's been a good neighbor. Hasn't done anything for the cops to come. Sometimes his lawn gets high because he forgets his lawn mower. In the winter he shovels when he is in town.

Mr. Bill Mirabito resides in Vestal and owns several of the townhouses (rentals) – received a postcard and wasn't sure what it was all about. He and his brother own six units in Quinn Estates and are purchasing another. Hearing what he's said he is more at ease but he's concerned at the possible precedent it would set. The people that live there love it. Number one reason is it's a quiet residential neighborhood. Worry about the path that is going down if we start other uses to the property. If it is approved he'd like a four year approval not sure if that's possible. Never had any complaints.

Ms. Rita O'Brien 83 Theresa Blvd. her husband was one of the original owners. She has a very big problem with this. Her husband is out of town – works like Andy – currently working on oil projects and they pay really really good money. Where they can save their money and buy homes where they squeeze in their business. Once you get the variance – we have residential properties – that value is going down and it changes. Mr. Mirabito has all the rentals and they are a key factor in our neighborhood – increased traffic, increased parking issues. We have families that may have small family unit – we can see five/six people living in these tiny houses. If you start making commercial business here a day care that's no longer there – the traffic was ridiculous. Imposition to us who live there – she's against it.

Mr. Walls closed the Public Hearing.

Mr. Pecha, Ordinance Office recommends approval of the Special Permit with the condition that it terminates on completion of the company's contract or when transfer of the property title.

Mr. Phillips read the following correspondence.

Town Planning recommends a favorable advisory with the stipulation the Special Permit terminates upon completion of the Prospect Mountain highway upgrade or upon transfer of the property title.

NYSDOT has reviewed the application and have no comments.

Urda Engineering recommends a favorable advisory and owner shall confirm building code compliance with the Town Code office.

Broome County Planning has reviewed the case and has not identified any significant countywide impacts associated with the proposed project.

NEW BUSINESS

- WILLIAM & BEVERLY CHILSON – 5 Matthews Rd. – TM#112.05-3-19 – Application for a Use Variance to allow a mobile home in a residential zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for March 24, 2015.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to accept this application for Use Variance to allow a mobile home in a residential zone.

ROLL CALL: AYES – 4 NAYS – 0

- FRANK ZMITROWITZ – 47 Dorman Rd. – TM#111.01-1-19 – Application for an Area Variance to reduce the minimum lot width from 240’ to 35.35’ in an agricultural zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for March 24, 2015.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, and unanimously carried to

accept this application for an Area Variance to reduce the minimum lot width from 240' to 35.35' in an agricultural zone.

ROLL CALL: AYES – 4 NAYS – 0

- MICHAEL KASABIAN – 148 W. Chenango Rd. – TM#094.01-2-32 – Application for a Use Variance to allow a recreational vehicle in front of the front building line.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for March 24, 2015.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to accept this application for a Use Variance to allow a recreational vehicle in front of the front building line.

ROLL CALL: AYES – 4 NAYS – 0

VOTES ON PUBLIC HEARING

- IFFAT CORP – Mohammad A. Majeed – 36 Clark Ave. – TM#112.06-3-14.2 – Application for a Use Variance to allow a two family residence in a residential zone.

A motion was made by Mr. Grannis, seconded by Mrs. Kinne, and unanimously carried to approve this application for a Use Variance to allow a two family residence in a residential zone with the following conditions – applicant will coordinate with the Town Building/Code Inspector prior to completing any additional modifications, a building permit with stamped plans is required for any modifications to be made, inspection by the Code Inspector is required for the structures to bring the existing structures into compliance with the building code, electrical inspection is required for electrical installations made without a permit, Code Officer will also confirm any property maintenance concerns with respect to the associated Town and Building codes, applicant is to assure that there are adequate parking spaces on the premises per Town Code to support the two residences (two per residential use), and apartment is not to be occupied until a certificate of occupancy is issued.

ROLL CALL: AYES - 3 NAYS – 1

Mr. Doolittle, ZBA Member the track record mentioned by the audience is not good. Not well

kept and sufficiently improved (open storage, garbage). He can't believe making it a two family is going to improve that. It's tough as a landlord to select people who really want to keep the property neat especially if they are students.

Mr. Phillips has a question for Mr. Pecha. Is there room on this property for four parking spaces?

Mr. Pecha front to back there is room. The left side needs to be corrected; which should be corrected through the building permit process. The process is going to be hard. He has been in the apartment. There have been many violations on the site – property maintenance problems.

Mr. Phillips you are still recommending approval?

Mr. Pecha yes. It's been there – we don't get involved with the tenants and the tenant problems. Owner needs to control the tenant(s). Want to bring this into compliance is all he's asking. The building permit is going to take care of more than just the apartment. The house has an illegal bedroom on the front porch. That's all going to be taken care of in the process.

Mr. Phillips this is a balancing job. If the variance is not granted – will it remain in a state of disrepair?

Mr. Grannis, ZBA Member the apartment has been empty for two years?

Mr. Majeed yes.

Mr. Grannis so any of the complaints on the property were on the original structure. For the last two years if there were issues it was with the people who are currently there.

Mr. Majeed they have been taken care of.

Mr. Grannis we used to call them studio apartments. Are there limits as to what size family can rent it? It's a one bedroom. It gets rented out and the next thing there's two adults, three kids, dogs. He agrees the building is there.

Mr. Phillips if we approve this we're leaving this for the ordinance office to fix. If it's not in compliance it's not happening.

Mr. Doolittle there's a long track record of neighborhood complaints. His attempts to improve are not very satisfactory. He was looking at it before the snow arrived – a lot of obvious things that could be done to make it a pleasant part of the neighborhood.

Mr. Phillips on the other side per Mike Linville the tenants are trying to fit into the neighborhood by helping others.

Mr. Doolittle Mr. Linville has a good working relationship with the tenants. What bothers him for nine and a half years there were problems. The current tenant won't be there forever making it a two family isn't going to improve it.

Mr. Grannis wanted to know from Mr. Pecha if he's had a lot of complaints that he's had to deal with and not the current tenants.

Mr. Pecha believes the past two tenants had complaints. They were riding ATV's around the house. It's definitely improved.

Mr. Phillips thinks we're ready for roll call. He'd like each person to justify their vote as they vote.

Ms. Kinne, ZBA Member before the zoning board can take this into consideration can we make sure the recommendations are in place?

Mr. Phillips actually Mr. Pecha is saying this is a code problem and until that's satisfied.

Mr. Pecha the code doesn't make things look pretty – can't tell him to put crown molding in.

Mr. Walls to Ms. Kinne in other words if the Board passes this it would be a condition that it meets code.

Ms. Kinne is voting yes under the conditions that the owner must be code compliant.

Mr. Grannis building already exists would hate to see it vacant. It's going to be an issue no matter what. Let him have it, bring it up to code. You never know whose going to be your neighbor – anyone can buy a house, move in and be a neighbor from hell. He is voting yes.

Mr. Doolittle is voting no. The gentleman has had the property for many years. The neighbors have complained the whole period. Bring the property up to code then come back for the variance. Clean it up, get the lawn mowed. He wouldn't want to live next door.

Mr. Phillips is voting yes because who is to say it's brought into compliance. Feels the gentlemen understands what our Board's concerns are. We want the property looking like it belongs in the area. Mr. Pecha can't force the ascetics but he sure can enforce the code. Secondly he hopes when you search for a tenant that a multi-family doesn't appear. As Mr. Pecha said you are going to have a difficult time bringing it into compliance – with parking, and with all the building codes. We want you to comply.

- GREEMAN-PEDERSEN, INC. – Patrick Kenneally – 108 Theresa Blvd. – TM#112.22-1-6 – Special Permit to operate a professional business out of a residential townhouse unit in a PDD-RII zone.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, and unanimously carried to approve this application for a Special Permit to operate a professional business out of a residential townhouse unit in a PDD-RII zone with the following condition the Special Permit will terminate upon transference of title or in five (5) years (2/2010).

ROLL CALL: AYES – 4 NAYS – 0

Mr. LaPolt wanted the Board to know that they still have two contracts for the Prospect Mountain project – would hate to have to come back to this board. The two contracts run for about four more years. Four years would be satisfactory.

Mr. Phillips shall we do five years just in case?

Mr. Doolittle do you need five years?

Mr. LaPolt didn't believe so but it would be safe.

Mr. Phillips we could do either or as a condition –five years or upon transference of the deed.

Mr. LaPolt if our business expands he won't even be there. We'd move to a more suitable spot. Right know it's served two purposes for us.

Mr. Phillips would like everyone to state their vote and give us your comments. Please be aware that those who made the motion the condition is five years or transfer of the property the Special Permit terminates.

Ms. Kinne is voting yes.

Mr. Grannis doesn't feel this is an issue. No one even knew he was there. He is voting yes.

Mr. Doolittle feels sorry for the people living in the complex. Bought and know the complex is changing over. There's probably another site there with the same problem. Respect to the owners being there he's voting yes.

Mr. Phillips is voting yes same reasons as Mr. Doolittle.

Mr. Phillips wanted the Board Members to know that next month two cases are coming up that are Use Variances. We need to make sure we satisfy the four requirements. One is a recreational vehicle in front let's make sure we're consistent in our findings.

Also, he was in NYC and felt it was the best conference in twenty years. The topics were very informative. Remember this Board needs to have four hours of training every year. He went to an ethics session and by the time he was finished he was more confused than before he went.

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Grannis, seconded by Mr. Doolittle, to adjourn the meeting at 8:04 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary