

December 21, 2016
Zoning Board of Appeals
Minutes

Members Present: Tracey Cullen, Chairperson
Kirk Hurme, Member
Bill Ordon, Member
Chuck Vinciulla (Alternate)
Robert Alweis, Building Inspector
Katie DeGraff, Administrative Assistant

Absent: Richard Ubert, Vice Chair
Todd Brice, Member

Before commencing the meeting, Ms. Cullen explained to the public that the meeting would be getting started shortly, as the Zoning Board was attempting to reach an applicant on the agenda to verify if they would be attending the meeting tonight.

Meeting called to order at 7:07 pm

Ms. Cullen welcomed everyone to the December 21st, 2016 meeting of the Zoning Board of Appeals, and introduced all the members. Ms. Cullen stated applicants are hereby notified that any and all agreed concessions, promises, pledges, assurances or declarations given by them or their duly appointed agents, during their hearing process shall become stipulations to any approvals given by this Board.

Ms. Cullen asked the Board for a motion to approve the minutes from the November 17th, 2016 meeting. A motion was made by Mr. Vinciulla and seconded by Mr. Hurme. Mr. Ordon abstained from voting being that he was absent from the meeting.

Vote on the motion: Ms. Cullen aye
Mr. Vinciulla aye
Mr. Hurme aye
Mr. Ordon abstained

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Ms. Cullen explained to the public that the Zoning Board had not yet been able to vote on the 335 Merrick Road application that was heard on October 20th, 2016, as the Village was awaiting a response from the Suffolk County Planning Commission. Ms. Cullen further explained that the Suffolk County Planning Commission submitted a letter stating that the application “is to be a matter for local determination as there appears to be no significant county-wide or inter-community impacts. A decision of local determination should not be construed as either an approval or disapproval.”

Ms. Cullen explained we would start with the last item on agenda (Christopher Pearson), as the applicant for items 1 and 2 was not yet present.

Application of Christopher Pearson. Applicant seeks the renewal of a special exception for the continuation of outdoor storage of construction equipment/ materials and motor vehicles pursuant to Sections 183-81 B and 183-43 of the Village Code. Premises located on the East side of Broadway [RT 110]. approx. 215 feet North of Oak Street in part “Business 1” and in part “Residential B” districts k/a 247-249 Broadway. a/k/a SCTM#101-4-3-55 and 101-4-3-56.

Findings:

1. Applicant has owned the property for the past 13 years. He operates both a construction company and a building supply company.
2. Applicant has renewed his Special Exception every year.
3. Applicant has yearly inspections by the Building Inspector. The last inspection showed that the applicant was in compliance.
4. Applicant uses the property for storage of construction equipment
5. A portion of the property is leased to Avante Towing Company, a vehicle repossession company. Avante pays rent at a rate of \$1,200 a month; Mr. Pearson believed the lease was a one year term.
6. Applicant has three vehicles that move every day on weekdays from 7:00 am- 3:30pm. He has other vehicles that do not move as often (mini-excavator, backhoe, and bobcat).
7. There is a 55 square foot building on the property which has electricity.
8. There are currently 3 storage containers located on the property, with Board of Trustees approval.
9. Applicant does not store hazardous material on the premises.

Stipulations:

1. The Special Exception will be approved for one (1) year, or until a change of ownership or any lessee, whichever comes first.
2. Applicant is limited to 3 storage containers with an approximate size of 8 feet by 20 feet with non-hazardous materials. Applicant must secure proper licenses from the Board of Trustees.
3. Maximum height of construction materials is 6 feet.
4. Maximum height of construction equipment is 12 feet.
5. No debris is allowed on the property.
6. All vehicles must be loaded or unloaded on the owner’s property. No loading or unloading can take place on municipality owned land.
7. All materials and equipment to be stored must be owned or legally leased by the property owner and stored/ arranged orderly to the satisfaction of the CEO.
8. Applicant must abide by all applicable state and local codes.
9. Applicant must apply for all necessary permits from the Building Department.
10. The Building Inspector has the right to inspect the premises at any time to make sure the stipulations are being maintained.
11. There are to be no unregistered vehicles on the property.

12. All vehicles not owned or leased by NY Poly Steel or Pearson and Pearson Construction are not to be stored on lot as of March 1, 2017.
13. Effective March 1, 2017, the property may not be used for the storage of repossessed vehicles.
14. Applicant must supply Building Department with registrations for all vehicles stored on lot.

Motion to approve with stipulations was made by Mr. Ordon and seconded by Mr. Hurme

Vote on the motion: Ms. Cullen aye
 Mr. Ordon aye
 Mr. Vinciulla aye
 Mr. Hurme aye

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Application of Dalia Aviad. Applicant seeks a use variance to maintain the existing non-conforming detached cottage and adjacent garage as a dwelling unit pursuant to Section 183-43 of the Village Code. Premises located on the North side of Washington Avenue approx. 432 feet West of Broadway [RT110] in a “Residential B” district k/a 33 Washington Avenue. a/k/a SCTM# 101-1-2-31

Application of Dalia Aviad. Applicant seeks a special exception to erect a non-conforming six foot metal estate fence on the front property line and a proposed six foot vinyl fence approximately forty feet from the front property line pursuant to Section 183-139 of the Village Code. Premises located on the North side of Washington Avenue approx. 432 feet West of Broadway [RT110] in a “Residential B” district k/a 33 Washington Avenue. a/k/a SCTM# 101-1-2-31

Ms. Cullen explained that we would discuss these applications at the same time, as they are for the same applicant and same parcel.

Ms. Aviad explained that she sporadically lives at the home. At one point, there was a squatter in her home. She now has a tenant living in the first floor of her home, and alleges to have a rental permit for this. The tenant pays \$1250/month in rent, and has access to two bedrooms, a bathroom, a living room, and a dining room. There is no separate apartment in the home. The tenant has one vehicle.

With regard to the fence application, Ms. Aviad explains that she has a 7 year old, 60 pound bull terrier dog that would jump over a 4 foot fence to easily. She would like to be able to let her dog roam in the yard freely and not have to worry about her escaping. Ms. Aviad and her son, Ariel Brown, explained that the Applicant was not seeking two fences; rather, she would like a fence on the property line, or if that was not granted, a fence at the “house line.” Ms. Aviad alleged that the dog, “Lady,” has never hurt anyone.

With regard to the cottage application, Ms. Aviad explained that she wants to have to for her son and his fiancé to move into. Applicant admitted that she started work on the cottage without a permit.

A number of individuals spoke regarding this application.

Tara Smith, 45 Washington Ave spoke and expressed her concerns stating that she wants to know what the intention is for this cottage, whether there a permit for the deck that was built, whether there a permit for the electrical work that was being done at the property for the cottage, what is going to be done about the cottage being that it is not structurally sound, how many people are going to live at the cottage, is garbage going to be put out on Friday for Sunday pick up, and what is going to be done with the dog. She expressed that there have been many problems with this dog in the past where she has been charged by the dog 3 different times, and knows that the mailman, Federal Express driver, and inspectors have been chased as well. Ms. Smith involved the Town of Babylon and the Amityville Village Police Department on October 31, 2015. Ms. Smith is very concerned as there is a two year old in the home between hers and the Applicant's, and worries for that child's safety. Ms. Smith alleged that electrical work was being done underground overnight. She has repeatedly observed the tenant parking on the front lawn, instead of the driveway. Ms. Smith stated that she lives in single family neighborhood, does not want this neighbor running a boarding house, and wants to be maintain the quality of life in the neighborhood, which she has lived in for 17 years. Ms. Smith did not object to the fence request, but was not comfortable with the application to do work on the cottage.

Lan Kels, 369 Lincoln Pl Brooklyn, is the son of the Applicant and spoke on her behalf. He stated that he had never heard of any police involvement regarding his mother's dog. He indicated that he will tell his mother's tenant not to park on the lawn.

Ed O' Rourke, 58 Washington Ave spoke and stated that he has no issue with a fence, but feels that a 6 foot fence is "overkill" and doesn't want it to be put up in their neighborhood. He suggested that the Applicant consider a dog run instead. Mr. O'Rourke also indicated that he is very concerned about the Applicant running a boarding house.

Joanne Fisk, 29 Maple Drive, stated that she believes a six foot fence is overkill, and particularly did not want a six foot fence on the property line. She was also concerned about the number of vehicles at the property. Ms. Fisk did not express an opinion regarding the cottage.

Ms. Cullen read into the record a letter that was sent to the board members from Pastor Robert Leibold of the Simpson United Methodist Church with his concerns regarding this application.

Findings:

1. Applicant seeks to perform construction work to combine her cottage and attached garage into one living space for her son and his fiancé.
2. Applicant has conducted work on the cottage and garage without a Building permit.
3. Applicant presented no evidence of financial need or hardship regarding expansion of the cottage into the adjacent garage.

4. Applicant would like to install a six foot brick and metal fence at the property line; if that is not acceptable, she would like to install a six foot vinyl fence at the “house line.”

Stipulations:

1. Applicant may maintain the original cottage but may not expand the living space into the adjacent garage.
2. Applicant may not permit the parking of vehicles on the lawn, and must ensure an appropriate driveway exists in accordance with Village code.
3. Applicant must abide by all applicable state and local codes.
4. Applicant must apply for all necessary permits from the Building Department.
5. The Building Inspector has the right to inspect the premises at any time to make sure the stipulations are being maintained.

Motion to deny special exception to erect a non-conforming six foot metal estate fence on the front property line and a proposed six foot vinyl fence approximately forty feet from the front property line was made by Mr. Hurme and seconded by Mr. Ordon

Vote on the motion: Ms. Cullen aye
Mr. Ordon aye
Mr. Vinciulla aye
Mr. Hurme aye

4 -0

Motion to approve the use variance to maintain the existing non-conforming detached cottage with the stipulation that the dwelling space is not expanded into the adjacent garage was made by Mr. Ordon and seconded by Mr. Hurme

Vote on the motion: Ms. Cullen aye
Mr. Ordon aye
Mr. Vinciulla aye
Mr. Hurme aye

4 -0

Application of 335 Merrick Road Realty LLC. Applicant appeals the determination of the Code Enforcement Officer that applicant’s proposed use of the subject premises for “off-street parking for employees and customers is not a permitted use.” In the alternative, Applicant seeks a special exception for “use as vehicular parking.” Premises located on the south side of Merrick Road, approximately 180 feet east of Bayview Avenue, in a “Business 2” district, and known as 335 Merrick Road, also known as SCTM #101-10-3-5.

The application was heard on October 20, 2016. An in depth decision setting forth the findings and analysis will be published shortly under separate cover.

Motion to affirm the determination of the Code Enforcement Officer that the applicant's proposed use of the subject premises is not a permitted use was made by Mr. Hurme and seconded by Mr. Ordon.

Vote on the motion: Ms. Cullen aye
Mr. Ordon aye
Mr. Hurme aye
Mr. Vinciulla abstained (absent from the October 20, 2016 hearing)

3 -0

Motion to deny the special exception for use as vehicular parking was made by Mr. Hurme and seconded by Mr. Ordon.

Vote on the motion: Ms. Cullen aye
Mr. Ordon aye
Mr. Hurme aye
Mr. Vinciulla abstained (absent from the October 20, 2016 hearing)

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A motion to adjourn the meeting was made by Mr. Hurme and seconded by Mr. Vinciulla

Vote on the motion: Ms. Cullen aye
Mr. Ordon aye
Mr. Vinciulla aye
Mr. Hurme aye

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Meeting adjourned at 8:50 pm

Dina Shingleton, Clerk/Treasurer