

Zoning Board of Appeals

Minutes

May 26, 2022

Chairperson Roger Smith welcomed everyone to the May 26, 2022, meeting of the Amityville Zoning Board of Appeals at 7:00 P.M.

Members Present: Roger Smith, Chairperson
Tracey Cullen, Vice Chairperson
William Ordon, Member
Eric Taylor, Member
Richard Ubert, Member

Absent: Robert Russo, Alternate Member

Other Attendees: Michael Breitweg, Building Inspector
Gregg Doerner, Building Inspector
Catherine Murdock, Clerk/Treasurer
Kerri Geiger, Secretary to the Board

After introducing The Board, **Chairperson Roger Smith**, informed applicants that they are hereby notified that all agreed upon 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 the Board. He also asked that anyone who comes to speak at the podium to please state your name and address for the record and to sign in on the sign in sheet.

Chairperson Roger Smith informed the applicants that they must adhere to the plans submitted in conjunction with this application as approved by The Board, any deviation from the approved plans may require the application to be re-called by the Board.

Chairperson Roger Smith motioned to approve the April 28, 2022, Zoning Board of Appeals minutes. **Eric Taylor** seconded the motion.

Vote on the Motion:	Roger Smith, Chairperson	aye
	Tracey Cullen, Vice Chairperson	aye
	William Ordon	aye
	Eric Taylor	aye
	Richard Ubert	aye

Motion carried: 5 ayes 0 nays

Renewal of Application of Jeffrey Krinick. Applicant seeks a use variance for the reduction number of off-street parking spaces pursuant to Section 183-129 of the Code of the Village of Amityville. Premises located on the South side of Dixon Avenue approximately 501.15' East of Albany Ave in an Industrial district, known as 151 Dixon Ave a/k/a SCTM# 101-4-1-114.7

Vice Chairperson Cullen stated that Mr.Krinick originally had a 6-month approval on special exception. The Board received a letter seeking a 1-year extension due to COVID-19 related delays.

A motion of approve was made by **Chairperson Smith** and was seconded by **Eric Taylor**.

Vote on the Motion: Roger Smith, Chairperson
 Tracey Cullen, Vice Chairperson
 William Ordon
 Eric Taylor
 Richard Ubert

Motion carried: 5 ayes 0 nays

Applicant of Jonathan Pesce. Applicant seeks renewal of a previously approved by “Special Exception” conversion of a one-family dwelling to a two-family owner-occupied special exception pursuant to Section 183-43 C (6) of the Village code. Premises located on the north side of Oak Street, approximately 51 feet east of Lake Street in a “Residential B” district known as 122 Oak Street a/k/a SCTM# 101-4-4-25.

Jonathan Pesce, 122 Oak Street, Amityville, NY spoke on behalf of this application.

- Applicant seeks renewal of a previously approved special exception conversion of a one-family to a two-family owner-occupied home.
- The upstairs is a single-family apartment; the tenant has lived there for a month.
- Applicant lives on the first floor and has a basement as well.
- There is adequate off-street parking.
- Building Inspector Michael Breitweg inspected the property, which passed inspection.
- No one spoke for or against the application.

Stipulations:

1. Applicant must obtain and maintain rental permits.
2. Maintain adequate off-street parking, garbage removal and debris, and keep up the maintenance of the property.
3. Approved for four years or change of ownership.
4. Applicant must adhere to Village, State and Local Codes.

A motion to approve was made by **Vice Chairperson Cullen** and was seconded by **Eric Taylor**.

Vote on the Motion: Roger Smith, Chairperson
Tracey Cullen, Vice Chairperson
William Ordon
Eric Taylor
Richard Ubert

Motion carried: 5 ayes 0 nays

Application of Lisa Eagan. Applicant seeks variance to erect a 6 ft vinyl fence in a rear yard pursuant to Section 183-139 A (2) of the Village Code. Premises located on the Southwest corner of Locust Avenue and Lafayette Avenue in a “Residential B” District known as 21 Locust Ave. a/k/a SCTM# 101-1-3-12.

Lisa Eagan, 21 Locust Avenue, Amityville, NY spoke on behalf of this application.

- Applicant would like a six-foot PVC vinyl fence to run along the back side of the property.
- Applicant explained that she has a fear of dogs as she was bitten by a dog. Her neighbor has two German Shepherds. Currently a wooden 4’ fence is there that the dogs can jump.
- Applicant stated that there are other 6’ fences in the area.
- No one spoke for or against the application.

Stipulations:

1. Applicant must install fence with the finished side facing towards the neighbors.
2. The fence must be properly anchored.
3. Applicant must obtain a fence permit.
4. Applicant must conform to the plan submitted.
5. Applicant must apply to the Building Department for all proper building permits.
6. Applicant must abide by all applicable State, Village and Local Codes.

A motion to approve this application was made by **Richard Ubert** and was seconded by **William Ordon**.

Vote on the Motion: Chairperson Roger Smith aye
Vice Chairperson Tracey Cullen aye
William Ordon aye
Eric Taylor aye
Richard Ubert aye

Motion Carried: 5 ayes 0 nays

Application of Nicholas Bufinsky. Applicant seeks a variance to erect a 6 ft vinyl fence pursuant to Section 183-139 A (2) of the Village Code. Premises located on the West side of

Ketcham Avenue approximately 323 feet North of Cedar St. in a “Residential B” District known as 106 Ketcham Ave. a/k/a SCTM# 101-5-5-25

Nicholas Bufinsky 106 Ketcham Avenue, Amityville, NY spoke on behalf of this application.

- Applicant would like a 6-foot vinyl fence with the top foot being see through, for the south side of his property.
- There are other 6’ fences in the area
- No one spoke for or against the application

Stipulations:

1. Applicant must install fence with the finished side facing towards the neighbors.
2. The fence must be properly anchored.
3. Applicant must obtain a fence permit.
4. Applicant must conform to the plan submitted.
5. Applicant must apply to the Building Department for all proper building permits.
6. Applicant must abide by all applicable State, Village and Local Codes.

A motion to approve this application was made by **Eric Taylor** and was seconded by **Vice Chairperson Cullen**.

Vote on the Motion:	Chairperson Smith	aye
	Vice Chairperson Cullen	aye
	William Ordon	aye
	Eric Taylor	aye
	Richard Ubert	aye

Motion carried: 5 ayes 0 nays

Application of Christian Maldonado. Applicant seeks a variance to maintain a 6 ft vinyl fence in rear and side yards pursuant to Section 183-139 C (3) of the Village Code. Premises located on the Southeast corner of Maple Drive and County Line Rd. in a “Residential B” District known as 118 Maple Dr. a/k/a SCTM# 101-1-1-47.

Christian Maldonado, 118 Maple Drive, Amityville, NY spoke on behalf of this application.

- The fence is already installed. 6’ in the back, tapers down to 4’ on the side and in the front.
- Front part of the fence is see-through picket style PVC, the remainder of the fence is solid PVC.
- The home abuts County Line Road; there are other 6’ fences in the area. His next-door neighbor has a similar style.
- No one spoke for or against the application.

Stipulations:

1. Applicant must install fence with the finished side facing toward the neighbors.
2. The fence must be properly anchored.
3. Applicant must obtain a fence permit.
4. Applicant must comply with all plans submitted to the Building Department including a marked highlighted survey.
5. Applicant must abide by all applicable State, Village and Local Codes.

A motion to approve this application was made by **William Ordon** and was seconded by **Eric Taylor**.

Vote on the Motion:	Chairperson Smith	aye
	Vice Chairperson Cullen	aye
	William Ordon	aye
	Eric Taylor	aye
	Richard Ubert	aye

Motion carried: 5 ayes 0 nays

Application of John Pompay. Applicant seeks a side yard setback variance associated with the proposed alteration/addition of a single-family residence pursuant to 183-34 of the Village code. Premises located on the South side of Dewey Avenue approximately 90 ft. West of Mincher Pl. in a "Residential BB" District known as 20 Dewey Ave. a/k/a SCTM#101-14-1-36.

Architect Keith Cordova from JM2 Architecture 2210 North Ocean Avenue, Farmingville, NY spoke on behalf of the application.

- Application is a single-family home with an attached two car garage. The house is in a flood zone sitting on the Great South Bay, and they seek to elevate it.
- There is a patio that has a Certificate of Occupancy.
- The house will sit on the same footprint it currently takes, with no further encroachment on the setbacks (pre-existing nonconforming).
- Current flood zone is 9', they seek to elevate the house 11' in accordance with FEMA recommended guidelines. They do not need a height variance.
- No one spoke for or against the application.

Stipulations:

1. Application must now go to the Planning Board.
2. Applicant must comply with Codes.
3. Applicant must comply with plans submitted.
4. Applicant must abide by all applicable State, Village, and Local Building codes.

A motion to approve this application was made by **Vice Chairperson Cullen** and was seconded by **Eric Taylor**.

the Village Code. Premises located on the East side of Broadway approximately 99 feet north of Dixon Avenue in a "B-1 Business" district known as 379-383 Broadway a/k/a SCTM# 101-2-4-23/24.

Joseph F. Buzzel, Esq., 535 Broadhollow Road, Suite B4, Melville, NY spoke on behalf of the Applicant

- Applicant seeks a special exception and one-use variance.
- Applicant owns the lot; has owned it since the 1980's. At one point he had an office on the property, but it was taken down in 2018.
- The lot is L shaped, with 126' of frontage on Broadway, and 50.28' on Dixon Avenue.
- Adjacent to this building is a medical building on Broadway, and Bunt Commons II on Dixon Avenue.
- Applicant seeks a two-story mixed-use building with 5 apartments and 3 office units. The project would require 21 parking spaces, which it has.
- They would like a colonial bay village architectural design with a turret at the corner to improve appearance of the building. There will be decorative small balconies on the residential units.
- There are two curb cuts for vehicles to exit, one of which has a light.
- Existing conditions of site are not attractive
- Applicant stated that he is in conformance with height and side yard variances.
- The front yard on Broadway would require 15.75' setback based on the average of surrounding properties; they have 12.34'.
- Five apartments, all within the village code requirement for size. Each apartment is a one-bedroom unit, expected to command about \$2000 per month in rent.
- Three offices are proposed for the first floor and include the unit where the turret is. Applicant would use one unit for his real estate business, and the PBA is interested in taking 1 or 2 remaining units.
- Chairman Smith asked about the building just offices, but Mr. Buzzell explained that the market does not support this, particularly considering COVID. Another of Mr. Buzzell's clients has not been able to maintain his office tenants in the Village.
- Joan Donnison of the Bay Village Civic Association asked about the rents. The answer was \$2000 is the estimate. Ms. Donnison asked questions about the finishes that would be used, as she is aware that the applicant was the original developer of Bunt Commons, and she had concerns. Mr. Buzzell said the floors will be hardwood with maple cabinets and granite countertops.
- Applicant has no other projects in the Village of Amityville at this time but has built many projects in his career in the Town of Babylon, including Amityville.
- Applicant would connect to the Sewer District; would go to the Board of Health for sewer approval. Would need to go to State DOT for curb modifications on Broadway and the County for curb modifications on Dixon Avenue.

Stipulations:

1. Applicant must now go to the Planning Board.

2. Applicant must comply with Village, State, Local and Building Codes.
3. Applicant must comply with plans submitted.

A motion to approve this application was made by **Richard Ubert** and was seconded by **Vice Chairperson Cullen**.

Vote on the Motion:	Chairperson Smith	aye
	Vice Chairperson Cullen	aye
	William Ordon	aye
	Eric Taylor	aye
	Richard Ubert	aye

Motion carried: 5 ayes 0 nays

Application of Glenn Nugent as agent for Vincent and Carolyn Franco. Applicant seeks a height variance associated with alterations of a single-family residence pursuant to 183-29 of the Village Code. Premises located on the Southeast corner of Marion Rd. and South Ketcham Ave. in a “Residential BB” district known as 32 Marion Rd. a/k/a SCTM# 101-11-3-1.

- This Board originally heard the application in November 2020; as modified it was approved in May of 2021.
- Mr. Nugent spoke on behalf of this application as their attorney
- House is 63’ in width. East portion of residence is 31.4’ high (22’ of width); the remainder is 34’ high
- Mr. Nugent asked that the Board hear this as any other application, with *de minimis* relief needed, and not based on history or violations.
- Property has a stop work order issued in March 2022. Water is migrating into the house. At least 42’ of the roof, it not all of it, must be removed, as that section is currently 34’ high and they seek to bring that section down to 30’, with the remainder at 31.4’
- Mr. Nugent alleged that we have approved other similar applications for height, including at the same May 2021 hearing.
- Chairman Smith explained that the unfortunate part is that the ZBA worked hard with the Franco’s over several hearings to get to a plan that worked for everyone. If applicant is willing to remove a large section of the roof, he should be able to take off all the roof and get to 30’, particularly because numerous other variances were granted
- Vice Chairperson Cullen asked questions about the space above the garage. It has two LVL ridges and two LVL valleys- it would cost him \$40,000.00-50,000.00 to remedy this. This space is used as an attic. The ceiling height is just under 7’ height. Applicant stated that there is no habitable space in this area.
- Chris Papile of 22 Marion Road owns the house next door. He is in favor of the application. He doesn’t care how tall the house is. He would like to see the home completed, and sometimes changes happen mid project. Applicant is also concerned about this turning into a zombie home if it’s not finished, impacting all of their property values.

- Christine Danna of 193 South Ketcham is in favor of the application. The neighborhood is quiet. They are great neighbors that help others as a community. This home would add value to the neighborhood.
- Jeanne Bradley of 33 Marion Road lives directly across the street and is in favor of the application. She believes 16" of a variance is not that much.
- In listening to these three statements, the Board opined that a major concern for all three neighbors was that they would be looking and living with an unfinished home that could potentially become abandoned for a long period of time, impacting their own property values.
- Joan Donnison of the Bay Village Civic Association feels that it is unfortunate that the applicant, who is a builder, made this kind of error. The Zoning Board of Appeals already gave them major variances. Ms. Donnison also asked if Planning Board review would be required. She is against this application.
- Mr. Nugent stated that approximately 16 neighbors submitted letters in support of the application.
- Gregg Doerner, Building Inspector stated that nothing on the plans would have prevented them from being built in accordance with the architect's plans.
- Vice Chairperson Cullen read a letter into the record in opposition from John H. Schad, former Vice Chairman of Planning Board and David Heller, Former Chairperson of the Zoning Board of Appeals addressing the bad precedent this sets.

A motion to deny this application was made by **Vice Chairperson Cullen** and was seconded by **Richard Ubert**.

Vote on the motion:	Chairperson Smith	aye
	Vice Chairperson Cullen	aye
	William Ordon	aye
	Eric Taylor	aye
	Richard Ubert	aye

Motion carried: 5 ayes 0 nays

Chairperson Smith adjourned the meeting at 8:20 P.M.

Respectfully submitted:


 Catherine Murdock, Clerk/Treasurer