

## **June Zoning Board of Appeals Minutes**

Members Present:     Alison Varley, Chairperson  
                              Richard Ubert, Vice Chair  
                              Kirk Hurme, Member  
                              Tracey Cullen, Alternate  
                              Bill Ordon, Member  
                              Todd Brice, Member

Also Present:         Thomas Whalen, Code Enforcement  
                              Stephen Greenwald, Director of Operations

Meeting called to order at 7:00pm

Chairperson Varley welcomed everyone to the June 18th, 2015 meeting of the Zoning Board of Appeals, and introduced all the members. Chairperson Varley stated applicants are hereby notified that any/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. Varley asked the Board for a motion to approve the minutes from the May 21, 2015 meeting. A motion was made by Mr. Ordon and seconded by Mr. Ubert.

Ms. Varley approved a request from David Ramroop, 67 Shore Road, Amityville for an extension of his ZBA approval due to delays from New York Rising.

Application of John Fiorini. Applicant seeks an area variance to encroach the required side yard pursuant to the installation of an elevated platform to accommodate the air conditioning unit pursuant to Section 183-51 of the Village Code. Premises located on the west side of LeBrun Ave. approx. 269 feet south of Richmond Ave. in a "Residential B" district k/a 27 LeBrun Ave. a/k/a SCTM# 101-13-8-6

Findings:

1. The house is located in an A-E-7 Zone
2. There is an existing side yard set-back of 8 feet
3. The air conditioning unit will be raised 4 ½ feet in the exact location of where it is now and will be accessed by a step ladder and will be hidden by bushes from the street
4. There is an existing wood frame deck with trex decking

There were no further questions by the Board and no comment from the audience.

A motion to approve the application with the following stipulations was made by Mr. Ordon and seconded by Mr. Ubert

Stipulations:

1. Applicant must secure all necessary and required permits
2. The air conditioning units must stay in the same location as it was except for the elevation

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Hurme	aye
	Mr. Ordon	aye
	Mr. Brice	aye

Motion carried            5 ayes            0 nays

Application of Daniel Lowe. Applicant seeks to reduce the required side yard setback pursuant to the erection of a proposed first floor deck to the northwest area of the existing one family dwelling pursuant to Section 183-17 of the Village Code. Premises located on the northwest corner of Cooper Ave. and Turner Place in a "Residential A" district k/a 29 Cooper Ave. a/k/a SCTM# 101-10-4-45

Findings:

1. Applicant purchased the home 5 years ago from his mother. Prior to that he lived there for 25 years
2. The rounded part of the of the stairs on the deck is the only section that is not in compliance as it measures 11.5 feet as opposed to the 16 feet required
3. The deck was built in 2014 after Super Storm Sandy
4. Applicant did not realize deck was too close until he applied for a Building Permit
5. The deck has 4 steps and is approx. 38 inches high and level with the 1<sup>st</sup> floor of the home

There was no further comment from the Board and no comments from the audience

A motion to approve the application with the following stipulations was made by Mr. Ordon and seconded by Mr. Ubert

Stipulations:

1. Applicant must abide by all applicable Federal, State, and Local Codes
2. Applicant must obtain all necessary permits
3. Applicant must conform to the plans as submitted

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Hurme	aye
	Mr. Ordon	aye
	Mr. Brice	aye

Motion carried            5 ayes            0 nays

Application of Coleman Laszlo as agent for owner Rose Laszlo. Applicant seeks to reduce the required side yard pursuant to the erection of a platform to install HVAC equipment upon and located in the North West area of the existing two-story, one-family dwelling pursuant to Section 183-51 of the Village

Code. Premises located on the North side of MacDonald Ave. approx. 250 feet east of Grand Central Ave. in a "Residential B" district k/a 17 MacDonald Ave a/k/a SCTM# 101-12-4-31.1

Findings:

1. The house burned down and is in the process of being re-built
2. The air conditioning unit is being moved from the West side of the house to the Northeast side of the house which will be more aesthetically pleasing
3. The unit will be raised based on FEMA requirements and will be 24 inches high
4. The unit cannot be housed in the rear of the house because there is a rear deck

There were no further comments from the Board and no comments from the audience

A motion to approve the application with the following stipulations was made by Mr. Ordon and seconded by Mr. Brice

Stipulations:

1. Applicant must abide by all applicable Federal, State, and Local Codes
2. Applicant must obtain all necessary permits
3. Applicant must conform to the plans as submitted

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Hurme	aye
	Mr. Ordon	aye
	Mr. Brice	aye

Motion carried            5 ayes            0 nays

Application of Charles and Jenny Deckert. Applicant seeks to exceed maximum height pursuant to the elevation of the existing two-story, one-family dwelling to meet FEMA requirements pursuant to Section 183-46 of the Village Code. Premises located on the south side of New Point Pl. approx. 362 feet east of South Bayview Ave. in a "Residential B" district k/a 32 New Point Pl. a/k/a SCTM#101-12-6-75

Findings:

1. Applicant has owned the home for 35 years
2. The house has had water 13 times over the years and always floods through the garage and lower level
3. The home is of a split level design which places the den behind the garage on the lower level
4. The height variance is a minimal request as the applicant is only asking for 1.5 feet above code
5. Other homes on the street have been granted variances and are elevated to a height of 32 feet

There were no further comments from the Board and no comments from the audience

A motion to approve the application with the following stipulations was made by Mr. Ubert and seconded by Mr. Brice

Stipulations:

1. Ridge height maximum is thirty two feet three inches (32.3)
2. Applicant must abide by all applicable Federal, State, and Local Codes
3. Applicant must obtain all necessary permits
4. Applicant must conform to the plans as submitted
5. Planning Board approval is required

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Hurme	aye
	Mr. Ordon	aye
	Mr. Brice	aye

Motion carried            5 ayes            0 nays

Michael Nomikos as agent for Snug Harbor Holding Corp. Applicant seeks a Special Exception pursuant to the operation of a Tattoo Parlor pursuant to Section 183-82A (12). Premises located on the north side of Merrick Road approx. 80 feet west of Park Ave. in a "B-2-Business" district k/a 74 Merrick Road a/k/a SCTM# 101-7-2-15

Findings:

1. Applicant owns South Shore Tattoo and it is currently housed at 127 Merrick Road, Amityville
2. Applicants lease is expiring and he needs more room so he has decided to buy the building at 74 Merrick Road, Amityville to house his business
3. Applicant is currently in contract to buy the building
4. Applicant will occupy the first floor of the building
5. There are two tenants currently occupying the other spaces. Amityville Teachers Association has 1.5 years left on their lease and Combs Bait and Tackle has 9 years left on their lease
6. This is the third time applicant has appeared before this Board for a Special Exception

There were no further comments from the Board and no comments from the audience

A motion to approve the application with the following stipulations was made by Mr. Ubert and seconded by Mr. Ordon

Stipulations:

1. Applicant must abide by all applicable Federal, State, and Local Codes
2. Applicant must obtain all necessary permits
3. The Special Exception is granted for three (3) years from the date of issuance

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Hurme	aye
	Mr. Ordon	aye

Mr. Brice            aye

Motion carried        5 ayes            0 nays

Application of Kirk Hurme of Amityville Wellness LLC as agent for Bradley Berger. Applicant seeks an area variance to exceed the required lot coverage and a Special Exception to reduce the required parking spaces pursuant to an approx. 25 square foot one story addition to the existing one story masonry building pursuant to Sections 183-87 and 183-129 of the Village Code. Premises located on the east side of Broadway approx. 61 feet north of Union Ave. in a "Business 1" district k/a 209 Broadway a/k/a SCTM# 101-5-3-29

Mr. Hurme recused himself from the Board as he was the applicant. Ms. Cullen the alternate member joined the Board for this application

Findings:

1. The current building houses Berger Brother's Camera which will be downsizing to one store front on the north side thus making the south side of the building available
2. The applicant is proposing a 250 square foot addition to the rear of the building facing the municipal lot. The extension will make the rear wall even with the buildings on both the north and south side
3. Applicant plans to maintain the existing store front and front door
4. There will be access for clients from the rear of the building
5. The addition will cover an additional 9% of lot coverage
6. The building will have eight (8) treatment rooms and can accommodate up to eight (8) patients at a time
7. Applicant will not purchase the building without approval from the Zoning Board of Appeals

There was no further comment from the Board and the application was opened to the audience for comment

Joan Donnison, 150 South Ketcham Ave., Amityville requested to see the plan stating that she needs a visual to understand what was being discussed

With no further comments a motion to approve the application with the following stipulations was made by Mr. Ordon and seconded by Mr. Ubert

Stipulations:

1. Applicant must abide by all applicable Federal, State, and Local Codes
2. Applicant must obtain all necessary permits
3. Planning Board approval is required

Vote on the Motion    Ms. Varley        aye  
                                 Mr. Ubert           aye  
                                 Ms. Cullen        aye  
                                 Mr. Ordon         aye

Mr. Brice            aye

Motion carried        5 ayes            0 nays

Application of Oak Street Villas. Applicant seeks area variances pertaining to side, rear, and front yards, lot size and density, sky plane relief, and a variance for reduction of required parking spaces; pursuant to the proposed erection of twenty four (24) one bedroom multiple dwelling units pursuant to Section 183-61; 183-63 (A) (B) (C); 24-29 (E) and 183-129 of the Village Code. Premises located on the north side of Oak Street approx. 180 feet east of Broadway in a "Residential C" district k/a 22, 26, and 30 Oak Street a/k/a SCTM#'s 101-4-3-45,46, and 47

Mr. Hurme recused himself from the Board as he is looking to purchase a property that will be near the proposed project. Ms. Cullen the alternate member joined the Board for this application

Findings:

1. There are currently three (3) one family homes in disrepair on the parcels which will be taken down to accommodate the new building
2. The applicant received a change of zone from the Board of Trustees to a "Residential C" status for a multi-unit dwelling
3. Before the change of zone the Western most parcel was in a "Business-1" and the eastern two parcels were a "Residential B"
4. The applicant was originally approved for 12 units
5. A request from the Downtown Revitalization Committee (DRC) for more affordable units caused the applicant to redesign the project
6. Access to the new complex will be through the existing municipal lot and not through Oak Street
7. Applicant will need Board of Trustees approval for egress and ingress through the municipal lot of which the applicant will repave, landscape and lighting at a cost of approx. \$100,000
8. Applicant has paid approx. \$24,000 in fees to the Planning Board and approx. \$50,000 in redesigning fees
9. Planning Board reserved decision pending Zoning Board approval
10. The north side of the property borders Commercial Property and a right of way with an 11 foot buffer, the East side borders the Chichester Family Cemetery, and the West side faces the municipal parking lot
11. The average rent will be approx. \$1,200-1,500 per month
12. The return on investment based on 12 units would be 2.44% and on 24 units will be 5.9% as opposed to 8-10% which is considered the norm
13. The original cost of the project was estimated at \$3,000,000 with the proposed changes the new estimate is \$3,580,000
14. The original proposed 12 units was 17,436 square feet. The 24 units will be 21,060 square feet
15. The character of the project has no essential difference from the original proposal of 12 units
16. As per the Village Code, 48 parking spaces would be required for a project of this size
17. The applicant will be able to accommodate 25 parking spots on the premises
18. There are currently 62 parking spaces in the municipal lot, 6 of which will be taken away to make way for an egress into the complex leaving 56 parking spots
19. Applicant provided a Traffic Study at the request of the Planning Board

Bruce Kennedy, 31 Greene Ave., Amityville spoke on behalf of the applicant stating that his client made changes to the original project to provide a more transit orientated type of development that would

attract millennium aged people. He also stressed that the Village is trying to revitalize its Downtown and that this is the first positive step in the right direction.

Peter Keller, the architect for the project showed colored renderings of the project for the Board and public to view.

Mr. Mulryan, of Mulryan Engineering, 1225 Franklin Ave., Garden City presented a traffic study based on egress into the municipal parking lot that his office prepared for the applicant.

Carl Vernick, the owner of Soil Mechanics which is located directly behind the proposed project stated he is not opposed to the project but has concerns that the Village right of way with an egress to Route 110 he uses onto Route 110 may be compromised if the new residents decide to use it. He also has concerns that his trucks may make noise and bother the new residents.

Bob Curcio, 400 Flurry Lane, West Babylon, the developer assured Mr. Vernick he would work with his neighbors to answer any questions or resolve any issues that may arise.

Joan Donnison, 150 South Ketcham Avenue, Amityville stated that she was strongly opposed to Ms. Cullen hearing this application as she is an alternate member of the Zoning Board and she is also a member of the DRC. She questioned whether or not an alternate member could ask questions and stated she had never before seen an alternate ask questions. She stated that if people were considering bringing an Article 78 against the application they should be listening and should use Ms. Cullen as one of the reasons for petition. She further stated that Ms. Cullen was unethical and it was inappropriate to be voting on this application.

Ms. Cullen advised Ms. Donnison that alternates may ask questions and she is not the first to do so, and that the matter has been discussed with the Village Attorney. She also advised her that there is no conflict with her volunteer role on the DRC and that has also been cleared with the Village Attorney prior to that meeting

Ms. Varley, Chairperson explained to Ms. Donnison that if she had concerns she should contact the Village Attorney.

Ms. Donnison is opposed to the project because of insufficient parking and feels it is poor planning on behalf of the Village. She is also concerned about the drainage, lighting, snow removal, and the density of the project in general. She also feels that any kind of spot zoning or an over- lay district is a bad idea.

Mr. Curcio told Ms. Donnison that he would be happy to discuss any concerns she may have.

Ms. Donnison asked about how the Fire Department will be able to maneuver inside of the complex. Mr. Whalen, CEO explained that it would be addressed at the Planning Board

Csaba Gyenis, 50 Oak Street, Amityville spoke in opposition to the project. He presented a petition against the project with signatures that he collected from some of his neighbors. He feels that the homes currently on the properties should remain and that the developer should come up with some way to build behind them.

Andrew Weiner, 42 Oak Street spoke in opposition of the project stating that he is concerned about the traffic on Oak Street and also about the condition of the property as it is now.

Lauren Haffner, 294 South Bayview Ave., Amityville spoke in favor of the application. She stated that it is time to move forward with something positive. She is sick and tired of being the Village of no and of all the complaining and negativity from a select few people when any new project or idea is presented.

Tom Howard, 85 Grand Central Ave., Amityville spoke in favor of the project.

Warren Cohn, 184 Park Ave., Amityville spoke in favor of the project

A motion to approve the application with the following stipulations was made by Mr. Ubert and seconded by Mr. Ordon

Stipulations:

1. Planning Board approval is required
2. Applicant must abide by all applicable Federal, state, and local codes
3. Applicant must obtain all necessary permits
4. Application will be contingent on obtaining an easement from the Board of Trustees for egress and ingress out of the municipal lot, as well as permission to take six parking spaces from that lot to create the easement
5. Applicant must secure an additional seven (7) parking spaces for overnight parking
6. A six foot fence and landscaping will be placed along the right of way as a buffer area
7. Applicant must be granted approval from Suffolk County stating that it will be a matter for local determination for Village of Amityville to decide
8. Applicant will repave, landscape and provide new lighting to the municipal parking lot, including s 230 foot portion of the Right of Way running from Broadway to the N/E corner of the Village parking lot, which is adjacent to the access drive into applicant's property
9. Applicant will resubmit new plans to the Building Department to reflect the following
  - a. Eliminate the study/alcove and limit the square footage of each unit to 800 square feet
  - b. Each unit can only contain a living/dining area, kitchen, bathroom and one bedroom
  - c. No units can have a rear access point
10. Applicant must combine the three (3) original parcels into one(1) parcel

Ms. Cullen abstained from the vote

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Ordon	aye
	Mr. Brice	aye

Motion carried	4 ayes	0 nays
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