

**Zoning Board of Appeals
Minutes
September 20, 2018**

Members Present: Richard Ubert, Chairperson
Tracey Cullen, Vice Chairperson
Bill Ordon, Member
Kirk Hurme, Member
Todd Brice, Member
Eric Taylor (Alternate)

Other Attendees: Bryan Donato, Building Inspector
Corliss Baskerville, Secretary to the Board

Meeting called to order at 7:00 pm.

Chairman Ubert welcomed everyone to the September 20, 2018 meeting of the Zoning Board of Appeals and introduced all the members. Chairman Ubert 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.

Chairman Ubert asked the Board for a motion to approve the minutes from the August 16, 2018 meeting.

A Motion to Approve the August 16, 2018 minutes was made by Mr. Brice and was seconded by Ms. Cullen.

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

Motion carried: 5 ayes 0 nays

Ms. Cullen called for the Board to make a motion on the application of Robert Glaser, 51 Berger Ave., which was heard at the August 16, 2018 meeting. At the time of the hearing, the Board reserved decision to consult with the Village attorney. Applicant was seeking a Special Exception for the renewal of a non-owner-occupied, two-family dwelling. Pursuant to Section 183-43 C. (6) of the Village Code. Premises located: on the East side of Berger Ave., approximately 380 feet South of Shore Rd. in a "Residential B" District known as 51 Berger Ave.

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a/k/a SCTM#101-13-3-10.1. The minutes from the August 16, 2018 meeting reflect our findings and the community statements made against the application.

MOTION to deny the application of Robert Glaser Jr. was made by Ms. Cullen seconded by Mr. Hurme.

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

Motion carried: 5 ayes 0 nays

Application of Jose Coba: Applicant seeks Special Exception for the installation of a six-foot fence in a "Residential" District pursuant to Section 183-139 A. (2) of the Village Code. Premises located on the North Side of Maple Dr., approximately 450 feet West of Broadway in a "Residential B" District known as 39 Maple Dr., a/k/a SCTM# 101-1-1-31. Mr. Coba spoke on behalf of this application.

Findings:

1. Applicant has owned the home since March of 2017.
2. Applicant wishes to put up a six-foot fence with two doors for a car to pull through.
3. Applicant owns two beagles.
4. Applicant says there are other six-foot fences in the area.

Stephanie Andrews, 152 Cedar St., spoke in favor of the Board approving a six-foot fence and stated she has had beagles and they can jump five-foot fences.

Motion to approve this application was made by Mr. Brice seconded by Mr. Ordon with the following stipulations.

Stipulations:

1. Applicant's fence must be installed with the good side facing out.
2. Installation of the fence must conform to the outline on the survey.
3. Applicants must abide by all applicable Village, State and Local Codes.
4. The fence must be inspected by the Building Department.

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

Motion carried: 5 ayes 0 nays

Application of Patricia A. Flaherty. Applicant seeks to exceed the required lot coverage, encroach the required side yard and rear yard pursuant to maintaining the existing 13 ft. x 20 ft., irregular rear deck and hot tub pursuant to Sections 183-32, 183-34 and 183-37 of the Village Code. Premises located on the South side of Hamilton St., approximately 376 ft. East of South Ketcham Ave., in a "Residential BB" District known as 64 Hamilton St., a/k/a SCTM# 101-11-2-5. Ms. Flaherty spoke on behalf of this application.

Findings:

1. Applicant is in contract with selling her home and needs to legalize the irregular shaped deck, hot tub and setbacks to sell the house.
2. The hot tub and deck have been there for nine years.
3. The lot coverage is 29.22% with the deck and hot tub.
4. The side yard setback is pre-existing, non-conforming.

Maryanne Panabianco, 111 Wellington Pl., is the buyer of the home. She was hoping that the Board would approve the application. She was also concerned about receiving the Certificate of Occupancy so that she can move forward with the purchase before her mortgage application expires. Discussion about this matter ensued among the Board.

Motion to approve this application was made by Mr. Ordon seconded by Mr. Hurme.

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

Motion carried: 5 ayes 0 nays

Application of Kevin Nichols. Applicant seeks a "Use Variance" to permit the conversion of a one-family dwelling to a mixed-use dwelling with one office on the first floor, for owner's use only and the balance of the first floor and entire second floor to remain a one-family dwelling pursuant to Section 183-43 of the Village Code. Premises located on the North side of Ireland

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Pl., approximately 85 ft. East of Burch Ave. in a "Residential B" District known as 113 Ireland Pl., a/k/a SCTM# 101-5-1-3.1. Glenn Nugent spoke as agent for Mr. Nichols on behalf of this application.

Findings:

1. Applicant bought this property in 2006. He intended to reside in it at the time of purchase but reconciled with his wife and subsequently rented it out. He claims to have had rental permits and approvals.
2. The property is very well maintained. It is not apparent from the outside that there is a business purpose there.
3. Applicant runs a floor installation business out of Deer Park and uses the Amityville address as his office. He has one full-time employee on the premises, so only one car is parked there in connection with the business.
4. Applicant has no intention of putting a sign up indicating there is a business there.
5. Applicant has been operating out of this property for years with no issue. There are other business properties on this road. There is a separate side door entrance for the business.
6. The business-related work taking place in this office is billing, online orders, etc. The business operates Monday to Friday from 9:00 am to 5:00 pm. The Deer Park location is just a warehouse.
7. Applicant came before this Board in 2006 for a similar request and was denied.

Stephanie Andrews, 152 Cedar St., spoke against this application. She stated this is a residential area. Ms. Andrews feels that, if approved, the owner would use the approval as enticement to sell the house and get another mixed-use in the property. She is concerned that Mr. Nichols ignored the Village denial from 2006, operating his business anyway and is only here tonight because he got caught.

Mr. Nugent reiterates his previous statements that the Village has been aware of this business use for years and no one has ever complained about this property until such time.

Motion to reserve decision to look into possible legal issues was made by Ms. Cullen and was not seconded.

Motion to deny this application was made by Mr. Hurme seconded by Chairman Ubert.

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

Motion carried: 5 ayes 0 nays

Application of Panagiota Drepaniotis & Jenna Martone. Applicants seek a “Special Exception” pursuant to the proposed erection of a five ft. high, non-see-through fence running from the front of the house to the South side lot line pursuant to Section 183-139 A. (2) of the Village Code. Premises located on the East side of Lebrun Ave., approximately 356 ft. South of Richmond Ave., in a “Residential B” District known as 34 Lebrun Ave., a/k/a SCTM# 101-13-9-7. Jenna Martone spoke on behalf of this application.

Findings:

1. Applicants have a golden doodle puppy and want to be able to allow the dog into the yard.
2. Applicants intend to put in a pool which would require a fence.
3. Applicants are seeking privacy fence because their entire yard can be seen from the street.
4. A solid white five-foot PVC fence would match what their neighbors have done and are intending to do.

John Sullivan, 21 Lebrun Ave., spoke in favor of the application. He commented the applicants have done a magnificent job on both the inside and outside of the home and believes this would enhance the property. He hoped the Board would approve this.

Leaann(*this is the correct spelling*) Scelfo, 26 Lebrun Ave., lives two houses down from the applicants and spoke in favor of the application. She agreed with everything Mr. Sullivan said and believes that everything they have done is impeccable. She believes that the fence would be a great addition.

Hans Dietz, 43 Lebrun Ave., lives across the street from the applicants and spoke in favor of the application. He commented they are great neighbors and have done a great job on the property. He said the fence will enhance the look of the house and keep the charm of the Village.

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Harry Basil, 38 Lebrun Ave., lives on the adjacent property and is not opposed to the application but expressed concern that he would not be able to open his car door. He has a lot that is only forty feet wide. Mr. Hurme asked if the fence was only four feet would it have the same affect on his car. He stated he has no problem with the height of the fence as he has one as well. He reiterated if he parked two cars in the driveway he would not be able to open his car door. Chairman Ubert stated he believed the applicants to have a reasonable request. There is a fence dividing the properties which would be set back.

Motion to approve the application was made by Chairman Ubert seconded by Mr. Ordon with the following stipulations.

Stipulations:

1. Applicant's fence must be installed with good side facing out.
2. Installation of the fence must conform to the outline on the survey.
3. Applicants must abide by all applicable Village, State and Local Codes.
4. The fence must be inspected by the Building Department.

Vote on the Motion:	Mr. Ubert	aye
	Ms. Cullen	aye
	Mr. Brice	aye
	Mr. Ordon	aye
	Mr. Hurme	nay

Motion carried: 4 ayes 1 nay

Application of James A. Prisco: Architect as agent for Edwin Torres, owner. Applicant seeks to encroach the required side yard, front yard and sky plane pursuant to the proposed addition of a second-story, front porch and rear porch to the existing one and one-half story, one-family dwelling pursuant to Sections 183-50; 183-51 and 24-7 B. of the Village Code. Premises located on the East side of Forrest Pl., approximately 224 ft. North of Bedell Pl., in a "Residential B" District known as 73 Forrest Pl., a/k/a SCTM# 101-6-4-14.1. Mr. Prisco, the architect for the project, spoke on behalf of this application.

Ms. Cullen raised issues regarding the application being submitted to the Suffolk County Planning Commission. She stated the application could be heard but the Board would have to reserve decision until the application has been submitted and the Planning Commission has had a chance to review and respond.

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Findings:

1. The existing residence is at least 75 years old.
2. Applicant wants to convert the house to a traditional Victorian design, similar to the Village theme. Applicant is looking to add a dormer to the second story for their children. The property is a trapezoid. Essentially, a sliver is encroaching due to the home being on a trapezoid property (this starts from 0 feet from the back and up to approximately five feet from the front).
3. There is an encroachment into the sky plane with just a corner being at issue.
4. Applicant is proposing a covered front porch which will encroach on a setback of approximately thirty-two feet. It would encroach by 2.3 inches and would be eight feet wide.
5. The existing side yard setback is non-conforming.
6. The addition would not be detrimental to the character of the neighborhood.
7. The client did not create the hardship, prior people put home on the trapezoid property putting the home at a trapezoidal shape.

Stephanie Andrews, 152 Cedar St., spoke in favor of this application. She commented it would be a nice improvement to the property.

Motion to approve the application was made by Mr. Ordon seconded by Ms. Cullen with the following stipulations.

Stipulations:

1. Application must go to the Suffolk County Planning Commission before a permit is issued. Approval is contingent upon that.
2. An application must be submitted to the Village Planning Board.
3. Applicant must obtain valid permits as per plans.
4. Applicant must abide by all applicable Village, State and Local Codes.

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

Motion carried: 5 ayes 0 nays

Application of Andrew Slattery. Applicant seeks “Special Exceptions” to exceed the maximum allowable height for a fence in a residential district and a variance to exceed the maximum height for a fence within 30 ft. from an intersection pursuant to Sections 183-139 and 152-11 of the Village Code. Premises located on the Southeast corner of the intersection of Southwood

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Lane and County Line Rd., in a "Residential B" District known as 1 Southwood Lane a/k/a SCTM# 101-7-1-36.1. Andrew and Karen Slattery spoke on behalf of this application.

Findings:

1. The applicants just moved into the neighborhood.
2. The Slattery's purchased the home in July. Someone crashed through a wood fence with their vehicle leaving it in a dilapidated state.
3. The Slattery's want a privacy fence due to the heavy foot traffic on County Line Road. While sitting at the kitchen table, they can see people looking at them as they walk by.
4. Neighborhood dogs go to the bathroom on their property. This causes a ruckus with their own two dogs.
5. The Slattery's want privacy and security for their family.
6. The Slattery's propose a six-foot privacy fence with a two to three-foot setback.
7. Essentially, they are sacrificing a few feet of land to get more privacy.
8. The part of the fence on Southwood Lane would be four feet high.

Mr. Hurme expressed concern over the corner of the property having a six-foot, PVC non-see-through fence. He offered the solution of replacing the fence with a see-through fence with the addition of trees.

Stephanie Andrews, 152 Cedar St., spoke in favor of this application. She believes every house should be given a six-foot fence on County Line Road to give themselves privacy.

Chairman Ubert stated there is an existing five-foot fence which needs to be replaced. The applicants have agreed to cut back the encroachment. He saw no issue with the request.

Motion to approve this application was made by Chairman Ubert seconded by Mr. Brice with the following stipulations.

Stipulations:

1. Building Department must confirm if application must be sent to the Town of Oyster Bay for review.
2. The fence must be in conformance with the plans submitted.
3. Applicants must abide by all applicable Village, State and Local Codes.
4. The fence must be inspected by the Building Department.

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Vote on the Motion:	Mr. Ubert	aye
	Ms. Cullen	nay
	Mr. Brice	aye
	Mr. Ordon	aye
	Mr. Hurme	nay

Motion carried: 3 ayes 2 nays

Application of Jonathan Pesce & Ariel Zachow. Applicants seek renewal of a previously approved by “Special Exception” conversion of a one-family dwelling to a two-family dwelling approved prior to March 3, 2010 pursuant to Section 183-43 C. (6) of the Village Code. Premises located on the North side of Oak St., approximately 51 ft. East of Lake St., in a “Residential B” District known as 122 Oak St., a/k/a SCTM# 101-4-4-25. Ms. Zachow spoke on behalf of this application.

Findings:

1. The second floor is a separate apartment with its own entrance. Ms. Zachow and her husband live on the first floor.
2. Applicants purchased the home as a two-family and have lived in there for three years.
3. There is sufficient off-street parking.
4. Applicants maintained their rental permit and keep the house in nice repair.

Stephanie Andrews, 152 Cedar St., expressed concerned about the home remaining owner-occupied or change of ownership. Ms. Andrews is not opposed to the application but wants it to be an owner-occupied home.

Motion to approve this application was made by Mr. Brice seconded by Ms. Cullen with the following stipulations.

Stipulations:

1. Applicants must provide electrical underwriting certificate.
2. Applicants must obtain and maintain rental permits.
3. Maintain off-street parking, garbage removal and debris and keep up the maintenance of the property.
4. Applicants approved for a period of three years or change of ownership.
5. Applicants must adhere to Village, State and Local Codes.

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

Motion carried: 5 ayes 0 nays

Application of Glenn T. Nugent, Esq. as agent for property owner, James Josephson, President of Burch Realty Associates LTD. Applicant seeks "Use Variance" to maintain operation of a fiberglass fabrication business pursuant to Section 183-93 A of the Village Code. Premises located on the East Side of Burch Ave., approximately 320 ft. South of Sterling Pl., in an "Industrial" District known as 45 Burch Ave., Unit G, a/k/a SCTM# 101-3-4-13. Mr. Nugent spoke on behalf of this application.

Findings:

1. Applicant has received licenses from the Village to operate a fiberglass manufacturing business.
2. Applicant has received his certifications from the New York State Department of Environmental Conservation, ("NYSDEC").
3. The business had a two-week "OSHA" investigation and report. The Occupational Safety and Health Administration, ("OSHA") report gave the business a clean bill of health and the "NYSDEC" had no issues finding everything to be compliant. Documents and studies were submitted in support of this. The investigation has found no toxicity or carcinogens.
4. The owner has contracts that are not yet complete and wishes to remain at his location to fulfill the contracts.
5. There are eight businesses on the property (i.e. race car manufacturer, landscaper, waterproofing, a former dance studio, a used car dealer, etc.)
6. The business is 3500 square feet, has a self-contained spray room, a filtration system and compressor, which are operated in a closed environment.
7. Mr. Nugent argues the Village Code is outdated as it has uses that aren't contemporary, like tanning of hides. The part about fiberglass was put in the Code before there were spray booths. These days it is safe and closely monitored by "NYSDEC" and "OSHA".
8. Applicant has been operating for five years and has permits for this specific use from our Village. He has created a clientele and does a lot of work for New York City in landmark buildings, manufacturing building products.
9. Mr. Nugent submitted a Professional Engineer's letter dated on this day and written by a professional engineer in the Village. The letter supports the application and stated she had reviewed the reports of "OSHA" and "NYSDEC"

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reports and found everything to be compliant and operating in compliance with “NYSDEC” air permitting program

10. Mr. Nugent submitted prior licenses and air facility registration certificates to the Board.
11. The location is set far back on the property. It is set back approximately 150 yards. Applicant claims you do not smell fiberglass when walking near the building; only when you go into the building. This is an industrial area.
12. “NYSDEC” did an inspection on September 11, 2018 finding no violations and filters were in good working order.
13. Mr. Nugent stated applicant would suffer economic hardship after relying on the business. There are also monies spent to maintain the certifications and licenses to run the business.

Marty Ruben, 55 Sterling Pl., spoke against this application. He expressed concern that the business is operating under a prohibited use.

Patricia Stone, 6 Willis Ave., spoke against this application. Ms. Stone says Mr. Josephson (the applicant) works every day with the door propped open. He is blatantly lying about the doors being closed and his workers work in the parking lot in Hazmat suits while sanding items. She stated on weekends Mr. Josephson spends two hours using a leaf blower and blows the debris into street. She provided a petition signed by forty neighbors in opposition of the business’ operations. They feel the chemicals are volatile, carcinogenic and this is creating a cancer cluster. Ms. Willis said there are noxious odors and called the site a potential cancer cluster site. She went through chemicals used at the premises and the health damages of each. She said she cannot go outside from 6:00 am to 4:00 pm and has not been able to open her windows for two years. There are fumes in the house, basement and in her car. She has daily headaches, and eyes and ears are irritated. She also chokes on fumes when on the railroad station platform. Ms. Willis stated the residents have a right to clean air.

James Cipriano, 89 Sterling Pl., spoke against the application. He stated the smell is very obvious. He has a five-month-old daughter and likes to walk on Sterling Place and Burch Avenue. He cannot walk there anymore because it wrecks. The doors are sometimes open and sometimes closed. He is concerned about health and safety.

John Shadick, 69 Sterling Pl., spoke against the application. He has lived in his home for thirty-two years. He lives approximately 1,000 feet away from the property. He communicated there have been body shops there for as long as he can remember and never noticed a smell. Several years ago, he started noticing a smell and he believes its styrene. The smell is stuck in his nose and throat when he is trying to eat outside. He states the smell has calmed down in the past month or two, but he suspects that’s because they are aware of the complaints. The property is not characteristic of the neighborhood.

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James Tucker, 169 Sterling Pl., spoke against the application. Mr. Tucker lives several hundred feet from the area. He has been familiar with spray booths, resins and has worked with fiberglass for thirty years. He expressed concerned about airborne particles for a couple of years and wondering where it came from. He and his wife walk their dogs in this area and dogs are sniffing. He is concerned for human and animal welfare. Mr. Tucker thinks this business is better suited for an industrial area away from homes. It is not a good idea for doors to be open and he is very much opposed.

Astrid Tucker, 169 Sterling Pl., spoke against the application. She caught airborne dermatitis and has been itchy ever since and now knows why.

Stephanie Andrews, 152 Cedar St. spoke against the application. She is concerned because there is a water well right near there which could be impacting our water supply. She says we should get a site study done as a Village and feels ventilation requirements are relevant to the location. Ms. Andrews says it is irrelevant if you don't smell it when the doors are shut as there are a lot of toxic things we don't smell. She urges that we have the Suffolk County Environmental Crimes Division get involved as well as a "NYSDEC" site survey.

Patricia Senk, 114 Sterling Pl., spoke against the application. She states the garage doors are often open. She works from home quite a bit and the days that she is home she cannot go out of her house the smell is so strong. She is also concerned about whatever may be contained in the tin barrels left on the lot.

James Josephson, owner of the property, spoke to the complaints and comments made. He stated he tries to abide by all laws of the Village and State. His father was a partner with him and owned the property for fifty years before passing away two years ago. He says he has never had a complaint from the neighbors. Chairman Ubert stated that he has visited the property, but the fact remains that it is not a permitted use to operate a fiberglass shop. He goes on to state that all of the neighbors are complaining. The owner can always get another tenant with a permitted use business.

Henry McDowell, owner of the business, also spoke to the complaints and comments made stating the chemicals used cause cancer in large doses only. Anything in large amounts will be detrimental to your health. The reports submitted indicated these chemicals used are well below any hazardous levels. He stated there are no hazmat suits worn by the workers. They wear white Tyvek coveralls to keep their clothing clean from paint and dust.

Motion was made to deny this application by Chairman Ubert seconded by Mr. Ordon. The Board also noted there was no "dollars and cents" evidence of a unique financial hardship presented, and the business has a detrimental impact on surrounding residential property.

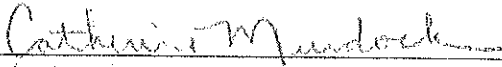
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Vote on the Motion:	Mr. Ubert	aye
	Ms. Cullen	aye
	Mr. Brice	aye
	Mr. Ordon	aye
	Mr. Hurme	aye

Motion carried: 5 ayes 0 nays

Meeting adjourned 8:47pm.

Respectfully submitted:



Catherine Murdock, Clerk/Treasurer