

Board of Appeals

January 22, 2015

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

Also Present Thomas Whalen, Code Enforcement
Stephen Greenwald, Asst. to the Board

Meeting called to order at 7:13pm

Chairperson Varley welcomed everyone to the January 22, 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 December 18, 2014 meeting. A motion was made by Mr. Ubert and seconded by Mr. Ordon

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

Motion carried 5 ayes 0 nays

Application of Craig Cascio. Applicant seeks a use variance to maintain a previously approved by Special Exception conversion of a one family dwelling to a two family dwelling, pursuant to Section 183-43 of the Village Code. Premises located on the south side of Oak Street approx. 832 feet east of Broadway in a "Residential B" district k/a 67 Oak Street a/k/a SCTM# 101-5-3-10

Findings:

1. Applicant has lived in and owned the home since 2003
2. The home was converted to a two family in 2003

3. Applicant states that it provides him with a needed additional income as he is currently unemployed
4. Taxes are approximately \$8500.00 which includes the town and Village
5. There have been no changes to the premises since the last renewal
6. The same tenant has resided in the apartment for the past two years
7. The dwelling has adequate off the street parking to accommodate the two family
8. The rental unit consists of a two bedroom apartment and the second unit is occupied by the owner
9. An inspection conducted on January 20, 2015 found the property to be in good condition
10. A prior application was approved for three years
11. No one spoke for or against the application

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

1. Dwelling must be owner occupied
2. Property must be maintained
3. A valid rental permit and annual inspections must be obtained as needed
4. This application will be granted for a three year period, or as long as it remains owner occupied, or until ownership is transferred, whichever comes first

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

Motion carried	5 ayes	0 nays
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Application of Kenneth Herman. Applicant seeks to maintain a previously approved special exception for the outside storage of scaffolding and trucks associated with their business pursuant to Section 183-96 of the Village Code. Premises located on the south side of Dixon Ave. approx. 421 feet east of Albany Ave. in an "Industrial District" k/a 143 and 147 Dixon Ave. a/k/a SCTM#'S 101-4-1-8 and 101-4-1-9

Findings:

1. Applicant has leased the property for the last 25 years
2. The parcel is used for the storage of trucks and scaffolding equipment that is necessary for the applicant's business
3. Applicant states that he cannot operate his business successfully without this storage area
4. Applicant renews the lease every three years with the owner Dr. Moore
5. An inspection conducted on January 21, 2015 indicated that there were no issues with the condition of the property

6. The last Special Exception was granted for 5 years. Since then there has been no changes to the property
7. No one spoke for or against the application

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

1. That the application be approved with the understanding that the equipment and materials that are stored outside will be allowed, but may not increase
2. That there will be no other outside storage of any chemicals, fuel oils or other toxic materials
3. That the outside storage be only as indicated on the site plan and plans presented with the application
4. Applicant must clean up and maintain property and all buildings on the premises
5. There will be a limit of the height of the outside storage which is not to exceed 15 feet in height
6. The application will be granted for a period of (5) five years or until a change of leaseholder/ownership, whichever comes first
7. The Code Enforcement Officer must inspect the premises every year. The applicant is responsible to make an appointment at the anniversary of the meeting date each year

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

Motion carried	5 ayes	0 nays
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Application of Charles Schultz. Applicant seeks to elevate the existing one family two story dwelling to FEMA requirements and reduce the required front yard and side yard setbacks pursuant to the addition of a front entry stairway, rear deck, and side air conditioning unit/structure pursuant to Sections 183-50 A and 183-51. Premises located on the east side of South Bay Avenue approx. 1059 feet south of Richmond Avenue in a "Residential B" district k/a 46 South Bay Avenue a/k/a SCTM#101-13-13-18

Findings:

1. Original rear deck was destroyed by Super Storm Sandy. The new deck will be the same size and width as the original
2. Air conditioning unit will be in the same location on the south side of the property but will be elevated on a platform
3. The new front step will be 8 feet in width, with a landing measuring 5 feet by 5 feet. It will consist of a total of 5 steps
4. The home will be raised to base flood plus 3 feet, which is different from the height originally proposed
5. No one spoke for or against the application

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

1. Applicant must submit revised plans to the Building Department that reflect the change in elevation
2. The proposed front yard setback must be no less than 12 feet from the front property line
3. The rear deck must stay within the side footprints of the house
4. The air conditioning units must stay in the same location as it was except for the elevation
5. Planning Board approval is required
6. Applicant must secure all required and necessary permits

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

Motion carried	5 ayes	0 nays
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Application of Christopher Pearson (14-12-03). Applicant seeks a continuation of a special exception permitting the outdoor storage of construction equipment and vehicles pursuant to Section 183-81 of the Village Code. Premises located on the East side of Broadway (Rt. 110) approx. 215 N/o Oak Street in part "Business 1" in part "Business 2" and in part "Residential B" district k/a 247/249 Broadway a/k/a SCTM# 101-4-3-55 and 101-4-3-56

Mr. Whalen advised the board that although an inspection was completed, many of the stipulations from the 2013 decision were not being met. Ms. Varley advised Mr. Pearson that the Board would reserve decision on the matter and give him 30 days to comply with those stipulations. A new inspection would be required before next month's meeting to ensure those stipulations would be met.

R. Shatarah Engineers as agent for owner Edward Ryan. Applicant seeks to exceed the maximum building height pursuant to the erection of a new two story one family dwelling to FEMA requirements pursuant to Section 183-46 of the Village Code. Premises located on the east side of South Bay Avenue approx. 834' south of Richmond Ave. in a "Residential B" district k/a 40 South Bay Ave. a/k/a SCTM# 101-13-13-15

Findings:

1. Applicant purchased the home 3 months prior to Super Storm Sandy but has not been able to live in the house since that time
2. There was approximately 4 feet of water in the home during the storm
3. The property measures 125 feet by 129 feet
4. The applicant is proposing a 17% lot coverage for the new home
5. The side yard setback is 45 feet on one side and 12 feet on the other

6. The front yard setback will be 30 feet from the curb
7. The air conditioning unit will be located on the side of the home with the 45 foot setback
8. Applicant is asking for an elevation of base flood plus 3 feet which exceeds the height from 28 feet to 34.7 feet
9. No one spoke for or against the application

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

1. Planning Board approval will be required
2. The air conditioning unit must be placed on the side of the home with the 45 foot setback
3. Applicant must secure all necessary permits

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

Motion carried 5 ayes 0 nays

Application of Art of Form Architecture as agent for owner Lucy Pelligrino (14-12-02). Applicant seeks to exceed the permitted height and lot coverage; reduce the required side and rear yard setback pursuant to the erection of a new two story one family dwelling with rear and side decks, front covered porch and garage under, pursuant to Sections 183-12; 182-15; 183-17 and 183-20 of the Village Code. Premises located on the west side of Grand Central Avenue approx. 602 feet S/o Dewey Avenue in a "Residential A" district k/a 347 Grand Central Avenue, Amityville NY a/k/a SCTM# 101-14-1-24

Findings:

1. At the applicant's initial hearing in December 2014, the applicant was seeking among other things a height variance of 47.6 feet . At that time decision was reserved. Applicant came back to the January 2015 ZBA meeting seeking among other things a height variance of 37 feet. All other requests from the December 2014 ZBA hearing remained the same.
2. Applicant is seeking a substantial request given the unique shape and size of the property
3. Applicant failed to demonstrate any similarly situated properties nearby
4. Applicant reduced the ridge height to 37 feet from the curb
5. Applicant modified the profile of the roof to a flat ridge line
6. Applicant is requesting a rear yard setback for the deck not the house
7. The first finished floor elevation is 9 feet above the curb
8. The lot coverage required is 20% and the applicant is asking for 25%
9. There is a pre-existing in ground pool

10. Applicant is asking for base flood plus 7 feet to the 1st floor
11. Ms. Pelligrino is the sole owner of the property
12. Mr. Votta will manage the construction of the project
13. There was no change in the height of the proposed floors in the revised plans. Floors measure 9 feet in height
14. Applicant is proposing a garage underneath the first floor
15. There will be no storage area above the second floor. All the ceilings will be vaulted
16. There is no habitable space in the “decorative tower”, it will be open from below
17. Applicant originally referred to the structure on the top of the residence as a cupola at the December 2014 hearing, but then referred to it as a decorative tower at the January 2015 hearing
18. Mr. Graziano, the neighbor to the south had no issue with the “towers” at the original hearing
19. Joan Donnison of 150 South Ketcham Avenue opposed the application
20. The benefit to the applicant can be achieved with the following variances that are being granted by the ZBA, while at the same time lessening any adverse impact on the neighborhood and neighboring properties

Motion was made by Mr. Hurme and seconded by Mr. Brice, to approve the application with the following stipulations:

The Board upon consideration of the applicant’s request has granted the following stipulations. In granting the following stipulations the ZBA deemed these variances as the minimum variances necessary and adequate for the applicant, while at the same time preserving and protecting the character of the neighborhood and the health, safety and welfare of the community.

1. Maximum height is 35 feet from curb to highest point of the ridge
2. Maximum rear yard setback will be 20 feet to deck or stairway
3. Planning Board approval is required
4. Applicant must secure all necessary permits
5. The “decorative tower” is referred to the Planning Board for review

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	nay
	Mr. Ordon	aye
	Mr. Brice	aye
	Mr. Hurme	aye
Motion carried	4 ayes	1 nay

Application of Matthew Demar (14-10-04). Applicant seeks to renew and modify in part, the approval granted by the Zoning Board of Appeals on December on December 28, 2010 as follows: To renew the use variance approvals for 5 two family dwellings previously approved for the subject property referred to above and described in Schedule A; applicant further seeks to modify the use of the dwellings k/a 356 Bayview Ave. and 358 Bayview Ave. , on tax lot 024.002 (a/k/a tax lots 022.001 and 023.001) from two family residences to four family residences; and to modify the dwelling k/a 370 Bayview Ave. on tax lot

021.001 from a two family residence to a three family residence; and to authorize the use of the building known as 360 Bayview Ave. as a 3 family residence pursuant to Sections 183-94 and 183-138 of the Village Code. Premises located on the west side of Bayview Ave. approx. 446 feet S/o Dixon Ave. in an "Industrial District" k/a 354, 356, 358, 360, 370, and 372 Bayview Ave., Amityville, NY a/k/a SCTM # 101-4-1-21.1; 24.2 and 24.3

Findings:

1. Applicant seeks to convert 2 properties into 4 family units including 2 basement apartments per unit
2. Not all basement apartments had the required proper egress which is a safety concern
3. Applicant submitted annual rents for each unit
4. Applicant has requested additional apartments which were already occupied prior to requesting relief
5. A prior stipulation from 2007 stated that there was to be no habitable space in the cellar areas of all units
6. Applicant has failed to provide competent evidence that he can't realize a reasonable rate of return on his property rate as is without additional variances
7. Applicant developed additional units without proper permits and inspections
8. The lot area of the property is .82 acres with a 18.5% lot coverage

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

The Board upon consideration of the applicant's request has granted the following stipulations. In granting the following stipulations the ZBA deemed these variances as the minimum variances necessary and adequate for the applicant, while at the same time preserving and protecting the character of the neighborhood and the health, safety and welfare of the community.

1. There are to be no basement apartments as per the 2007 stipulation stating that the cellars cannot be used for habitable space
2. The total number of apartments permitted on this property is not to exceed 13 units
3. Applicant must merge the three separate lots into one lot
4. Only two units shall be permitted in the converted garage at #360
5. Applicant must make sure all local codes and ordinances are met
6. Applicant is responsible to schedule an annual inspection with the Building Department
7. Applicant needs to install a dumpster for trash removal

Vote on the Motion	Ms. Varley	aye
	Mr. Ubert	aye
	Mr. Ordon	aye
	Mr. Brice	aye
	Mr. Hurme	aye
Motion carried	5 ayes	0 nay

Meeting adjourned at 10:45pm

By order of the Zoning Board of Appeals, Village of Amityville

Diane C. Sheridan
Administrator/Clerk
January 22, 2015