

City of Olean
ZONING BOARD OF APPEALS

Minutes for Zoning Board
Meeting held on December 14, 2017

1. Roll Call

Bob Moser called the meeting to order at 5:36p.m. Thomas Enright read the roll call. All members were present.

Present:

- Charlotte Hardy
- Otto Tertinek
- Darryl Bloom
- Shayne Certo
- Bob Moser
- Michael Padlo
- Thomas Enright

Staff:

- Kathleen Hewitt- Account Clerk Typist

1. Old Business

- **Reading and approval November 2, 2017 meeting minutes.**

A MOTION was made by Thomas Enright, seconded by Michael Padlo to approve the meeting minutes as is: Voice vote, ayes all. Motion carried.

- **Reorganization of Zoning Board of Appeals Members:**

Due to members resigning/joining a reorganizational meeting will be conducted for the following positions as followed:

Shayne Certo was nominated for Chairperson,

Sponsor 1: **Darryl Bloom** Sponsor 2: **Bob Moser** Voice vote, ayes all, Motion carried.

Bob Moser was nominated for Vice-Chairperson,

Sponsor 1: **Thomas Enright** Sponsor 2: **Michael Padlo** Voice vote, ayes all, Motion carried.

Thomas Enright was nominated for Secretary,

Sponsor 1: **Michael Padlo** Sponsor 2: **Bob Moser** Voice vote, ayes all, Motion carried.

1. **New Business**

121 and 121 ½ North 10th Street – Review Reasonable Accommodation Request

Thomas read letter aloud dated November 28, 2017 from Steven G. Polin.

Shayne opened the meeting for the Zoning Board to discuss this letter. Charlotte stated that she does not feel comfortable with having this discussion without first notifying the public and inviting them to attend this meeting since they will be reviewing this topic.

Bob questioned if they have received anything from Nick DiCerbo in regards to this matter. He noted he had a discussion with Nick and he was under the impression they would receive something from him. Bob explained the interpretation/definition could be Federal or there is our definition which emulates the State definition he believes. Bob questioned if this would have to go to court and have the court decide. He noted the housing people have a track record that they will need to keep in mind.

Charlotte reiterated she still does not feel comfortable having any kind of conversation without first letting the public being notified. She noted she feels the public should be notified since this could impact neighborhoods.

Otto explained he feels that Mr. DiCerbo should give them the exact definition that is being referenced in this letter. The one according to the U.S codes versus city codes so they can get a legal definition for what they are.

Darryl noted he feels it is prudent to have the city attorney weigh in on the matter.

Thomas question if the determination made by the Code Enforcement Officer on these two properties were made on a definition of what a “residence” is. Shayne responded she believes so and she believes it was on what our city codes definitions. Thomas responded the definition of a residence is what Mr. Polin is calling a residence; he is calling what is going on at 10th Street and Bishop St. a residence. Shayne responded he is referencing it as a “traditional” family. Thomas responded yes, and he gives reasons for that why it can be and has been litigated elsewhere as a “traditional family”. Thomas continued there seems to be precedence nationally that these homes have been recognized as “family” residences. Bob responded he does not think so. Thomas stated precedence has been set and he is leery if we are putting our own definition of what a residence is. Thomas questioned if it is one persons definition or is this what the city will stand by as a legal definition.

Charlotte stated she believes the council approved a definition not too long ago.

Bob stated if they deny this it is an article 78. Thomas agrees that it an article 78 and stated he feels a meeting with Mr. DiCerbo is important to get the legal input before they continue.

Darryl stated if they table the meeting everything will continue and there is no crisis or impact by this decision until they speak with Mr. DiCerbo.

Thomas questioned if both residence is in operation. Shayne responded she believes they are. Darryl commented since they are in operation there will not be prejudice by tabling the meeting for the night.

A MOTION was made by Darryl Bloom, seconded Charlotte Hardy by to table the meeting until further information from Mr. DiCerbo can be obtained: Voice vote, ayes all. Motion carried.

Shayne will pursue setting the meeting with Mr. DiCerbo for the member’s to obtain information.

Adjournment

A MOTION to adjourn was made by Bob Moser, seconded by Darryl Bloom. Voice vote, ayes all, Motion carried.

Next Meeting Date

The next Zoning Board meeting has been scheduled for Thursday, January 11, 2017 at 5:30 p.m. located in Council Chambers. Meeting adjourned at 5:56 pm.