

City of Olean
ZONING BOARD OF APPEALS

Minutes for Zoning Board
Meeting held on July 26, 2018

1. Roll Call

Shayne Certo called the meeting to order at 5:34p.m. Thomas Enright read the roll call. All members were present.

Present:

- Shayne Certo
- Michael Padlo
- Charlotte Hardy
- Otto Tertinek
- Darryl Bloom
- Thomas Enright
- Otto Tertinek
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Staff:

- Kathleen Hewitt- Account Clerk Typist
- Edward Jennings- Code Enforcement Department Supervisor

1. Old Business

Reading and approval July 12, 2018 meeting minutes.

A Motion was made by Michael Padlo, seconded by Otto Tertinek to approve the July 12, 2018 meeting minutes as is. Voice vote, ayes all. Motion carried.

A MOTION was made by Shayne Certo, seconded by Michael Padlo to table 1603 Main Street and 422 E. State Street until the August 9th, 2018 meeting: Voice vote, ayes all. Motion carried.

2. Public Hearing:

Thomas Enright read the application regarding 144 N. 11th Street aloud. The applicant is requesting an Area Variance to install an accessible ramp: If granted it will vary from Chapter 28 Article 6 Section 6.1 of the Zoning law.

Shayne opened the public hearing at 5:37 p.m.

Charlie from Rebuilding Together was present to represent the variance. He stated that the ramp will be built to current ADA standard.

Shayne closed the public hearing at 5:39 p.m.

Shayne reviewed Findings and Decision.

A MOTION was made by Thomas Enright, seconded by Charlotte Hardy to grant the Area Variance with the following condition: to be removed when no longer needed. Voice vote, ayes all. Motion carried.

921-933 and 943 North Union Street- exemption to the variance process.

Thomas Enright read the application regarding 921-933 and 943 North Union Street aloud. The applicant is appealing a determination from the City of Olean Fire Department, Captain Edward Jennings.

Shayne stated they will not be taking a vote this evening and the purpose of this hearing is to hear from the residence of the neighborhood.

Shayne opened the public Hearing at 5:48 p.m.

James Knight (*1521 Walnut Street*) recently retired and now volunteers as a member of the city wide neighborhood watch program in Ward 7. He recently questioned the residence if they had any concerns within the neighborhood and the concerns are the opposition off the shelter. He read the previous zoning board meeting minutes to better educate himself and is questioning why if the motion was defeated previously, are they coming back to overturn the Code Enforcement decision. He does not understand why St. John is applying when the Genesis House will be running the entity of the shelter, which makes this a Genesis House project, not a St. Johns. His understanding is that the Genesis House would then need a use variance. He stated that shelters are not permitted in residential districts. He noted the minutes dated April 26, 2018 Shayne Certo questioned ZBA member Thomas Enright if he planned on recusing himself from the St. Johns/Genesis House application as he did in a similar situation at the Alder Street property in 2016 due to conflict of interest. He stated in fairness and best interest of the residence of North Olean he should recuse himself from this application. James stated if a shelter is not allowed in East Olean in 2016 it should not be allowed in North Olean.

Mr. John Placito (St. Johns/Genesis House Attorney) explained he is a staff attorney at legal assistance of WNY in Rochester and Daniel Brennan from Nixon Peabody is present to represent the applicant St. Johns. He continued they are here today to ask the board of their interpretation based on the decision made by the code officer stating that St. Johns proposed use of their convent as a women and family shelter does not constitute as a permitted principal use in a residential 3 district. He explained they strongly argue that St. Johns proposed use of the convent for this proposed purchase does constitute as a permitted principal use and should be allowed as of rights, because the city of Olean codes does allow a permitted use in an R3 district churches and places of worship. He stated it is up to the ZBA to provide an interpretation today as to what those terms mean based on a plain and ordinary meaning, what does those terms church and place of worship mean, are they defined very narrowly only to preaching to parishioners over the weekend or does it include all the things and activities that you think of churches throughout their country such as marital counseling, crisis or substance abuse issues, evictions, foreclosures, youth programs and housing for the homeless. He stated to assist the board with making this interpretation they have provided amply documents that show that a plain and ordinary meaning of those terms church and place of worship include housing the homeless. Mr. Placito reviewed some of the documentation that was supplied to the ZBA.

Pat Driscoll (*830 N. Union Street*) noted he has nothing against the Genesis House taking care of women and children however, his concern is based on unknown, rumors, and not enough information and an article in the Times Herald wrote by Kate Day Stager dated November 12, 2017. He stated the articles stated the Genesis House housed approximately 50 men who must enroll in drug, alcohol and mental health treatment and his concern is the number of children in the park, neighborhood and Olean recreation center. If there is a religious exemption it will not help the welfare of the community and it will not preserve the character of the neighborhood but alter it. He questioned if prisoners from jail will be placed there. He questioned at first it was just the convent and now it is the church, rectory and school and if the school is going to be used for drug addicts housing. He questioned why all information is not being put out so the correct decision can be made.

His opinion is that this is morally wrong of St. Johns and Genesis House to force this on the neighborhood without providing all the information and not going thru the proper variance procedure. He recommends that this be tabled until the neighborhood can obtain legal council to find out more about this.

Kathleen Knight (*1521 Walnut Street*) she explained she is a parishioner for St. Johns for two decades now. As a parishioner they have been asked to support the Genesis House opening a women and family shelter in the old convent. She commented how the public was made aware with regards to the bulletin board and this statement clearly encouraging all parishioners to endorse the Genesis House a nonprofit agency relocating into the convent to conduct business as usual with running a shelter. This statement emphasizing the running of the shelter would be done by the Genesis House and not by her church that she has been told and it is a violation of the City of Olean code. She continued to explain the names on the petition were orchestrated before and after church with fellow parishioners holding clipboards, greeting people and questioning if you signed the petition. When a petition is presented in this manner it is easy to scribble down your name in support of something when the proposed shelter is not in their neighborhood. Kathleen supports the Genesis House staying in the Victorian house; it is centrally located downtown for walking and next to the police department if assistance is needed for security for battered women. She strongly opposes moving the Genesis House to the convent on the North End.

Lorraine Smith (*224 E. Oak Street*) she chose to purchase house in her neighborhood along with five of her siblings. She stated she has just been made aware of the proposed shelter and feels the parishioners should never be the voice of the neighborhood. She stated there should be a clear separation of church and state unless the Diocese is owner and operator of 100 % of the shelter however; this is not the case this evening. She has many questions and would request a meeting with the city attorney prior to anymore actions regarding this proposal, and the zoning laws were established for a reason and shelters were not allowed in residential districts because they would alter the essential character of the neighborhood. She stated shelters would devalue property values and submitted a handout to the members from reator.com for verification that shelters are #4 on the list and would decrease value of your house 12.4%. She explained their neighborhood is also hit with other drags on the list that is decreasing their neighborhood (1) high concentration of renters 13.8%, (2) solar farm recently located in the area which decreases value again 5.3% (3) Hospital decrease value minimal. She stated they do not deserve anymore property devaluation. She continued to explain they purchased their home in a specific zoned district and invested money in homes and would not be fair if a non permitted use was to be allowed. She questioned the location and the close proximity to parks and schools and with no idea who would be visiting and strangers walking around their neighborhood that is a concern. She asked the ZBA not open Pandora's Box.

Father Pat Melfi (*931 N. Union Street*) He stated he plans to stay in the rectory as long as he is located in Olean. He explained they are proposing for the just the convent itself and feels it is their role as Christians to reach out to people in need and our community and they are trying to address it. He stated they do not have the expertise of a homeless shelter and that is why they are partner shipping with the Genesis House and there are stipulations that St. Johns will be involved in.

Ron Parr (901 Maple Street) questioned if there would be enough room for families, does each room have a bathroom/shower or is it a communal bathroom/shower that will need to be shared with multiple families. He is questioning why the proposed location of the application is 921-933 and 943 North Union Street and not just the location of the convent and if there would be future plans for the other buildings. He questioned if the shelter would house people coming out of prison and if there would be programs for them. He stated he is dead set against this proposal and it would be on his front yard.

Greg Clark (926 N. Union Street) He stated he has tenants that live next door to him and is questioning why everything is under the gun. He stated he received a letter from the church in January to attend a meeting in which he did and asked three questions, and none of them were answered. His concern is after he went thru the neighborhood and nobody even knew until he brought it to their attention. He questioned why the church didn't have a neighborhood meeting since nobody knew anything about it. He feels this meeting should be tabled, and the neighborhood should come together and have more time to digest it and think about it. He stated this will bring transient people to their neighborhood. He feels this project should be uptown where they will have access to what they need and not in an area where there is nothing for them to do.

Daniel Brennan (St. Johns/Genesis House Attorney) He would mention that they are not seeking a variance or a case of whether or not the shelter is in an appropriate use in the neighborhood or if the neighborhood thinks it is a good idea or not a good idea. They are simply asking the ZBA to interpret the City of Olean code and decide whether or not the proposed use is a religious use since religious uses are permitted in this zoning district. He stated St. Johns and Genesis House are under no obligation to provide and information or hold any meetings for the neighborhood. He stated they applied for a building permit and it was denied and now they are appealing to the Zoning Board. They provided case law where the appellate division has already determined that homeless shelters and servicing the homeless is a religious use. He urges the ZBA to consider the relevance and the facts in their decision and not what the neighborhood feels.

Katie Ralston (205 Chestnut Street) She would ask the people to be careful and not criminalize people who are homeless or put in this position and also people who suffer the mental health issue is usually the victim of the crime and not the perpetrator of the crime. She noted the concerns/example is not being brought up from people from the Genesis House but people who are not affiliated with Genesis House. She encouraged the ZBA to speak to the neighbors of the current Genesis House and they will see there have been no issues. She stated personally as a member of the community she would like to thank St. Johns for trailblazing the way.

Kelly Sweet (311 Laurens Street) He understanding is that the board has received all the documentation that has been requested for a religious use and feels Genesis House has gone above and beyond to provide. She stated she lived for several years around the corner from Genesis House and stated it was quiet and did not witness any commotion or ruckus.

Matthew Wenke (2319 Johnson Road) He stated he knows many of the residence of Genesis House and has worked at Catholic Charities for 16 years. He wanted to reassure everyone that

the residence of Genesis House is you and me. They are not lower class; they are victims of domestic violence, drug addiction and mental health issues. He stated if you look around your neighborhood you will find all kinds of people with these same issues. He noted what brings the neighborhood down is the lack of compassion in the neighborhood that does not want to help the poor. He stated St. Johns has his support.

Chris Stanley (3406 Buffalo Street-Allegany) He stated he is glad the board is having a hearing to address all the missed information and also allowing the neighborhood to ask concerning questions. He shared person note of his 35 year old son who has mental issues and has been on the verge of homeless several times. He noted thru him he has gotten to know several homeless individuals in which there are 3 people crashing in his apartment presently. He stated none of these peoples are dangerous and Genesis house is not a flop house but a place where they can get help and have permanent change in their lives.

Dennis Pezzimenti (410 Wayne Street) He stated he serves on the parish council and when Father Melfi brought this to the attention at a meeting not one person had an issue with the Genesis House becoming part of their parish. He continued he had a few conversations with various people and nobody felt it was a zoning issue because it was a religious use. The parish felt they should present to the city and handled this the correct way. He noted he has spoken to a few attorneys and they believe this is a done deal and do not know how much the zoning board has a say in this matter, and according to the city attorney Nick he did not feel this hearing is necessary.

Pat O' Malley (803 King Street) as a member of the catholic church their mission has always been to help the less fortunate either with food drives; hygiene products etc.. She noted they should step up their game and help the less fortunate.

Mary Freeman (1700 Stardust Lane) she stated she was present at the meeting in January and left the meeting feeling positive about the way they would help the community thru the Genesis House. She stated anyone can be homeless due to bad economy and any kind of hardship. She continued that her and her son would volunteer at the Genesis House and she felt comfortable being there and she would never bring her son to somewhere that was dangerous. She encourages everyone to look at this as a religious outreach.

Linda Matthews (1809 W. State Street) she has done writing in the past for Genesis House and was able to see the statistics. She stated a few things that dismayed her was each year there are families that wind up there because of cancer and/or cancer treatment or health treatment they may need. She noted people become homeless because of other issues then drugs and everyone is one serious illness away from being homeless themselves.

Diane Tripodi (132 N. 8th Street) explained she has not lived in Olean her entire life but her husband moved here in 2010 and she followed in 2011. She stated the first place she went to is Genesis House and that began a 7 year relationship. She continued she helped start a not for profit company called "greater opportunities for Olean" which operated for about 4 years. She explained they worked with Genesis House and other agencies assisting people with getting jobs,

preparation for jobs or to interview for a job. She stated the lawyer part of her is saying the lawyers representing St. Johns are right and this is not the boards concern or the areas concern.

Linore Lounsbury (*Genesis House Executive Director*) she stated it is their 23rd year of being in the city of Olean and are governed by 11 congregations. She stated they have partnered with St. Johns because they help with a number of things such as fundraisers; parishioners are on their board of directors, government. She invited everyone to visit Genesis House and get to know them. She explained every year they have women with newborns and no place to go so they live at the Genesis House and last year the oldest person they had was 92 years old and her children would not take care of her. She stated they do not do domestic violence; they do not take people at night so when the police call her because of a homeless person they get them a hotel for the night, no visitors are allowed at the shelters if people want visitors they need to go other places to visit families. She stated they have a 70 % success rate and they become tax payers, neighbors and friends. She continued they do after care lunches and invite people to the house to make sure they stay strong and if they are not doing well they help them do whatever they need to be successful.

Audrey Mogan (*609 1/2 W. State Street*) she stated Genesis House helped her when she fell behind with finances in the food service business; she was evicted from Hamburg and moved here to be with her cousin however; he had mental house issues and kicked her out and Genesis House saved her from suicide. She stated she has a full time job now all because of Genesis House.

Steven Bloom (*942 N. Union Street*) he is questioning why all three properties are going to get the variance. He noted he is not against the Genesis House but has issues with the parking. He stated he cannot get in or out of his driveway during mass due to people are so inconsiderate of his driveway and they block his driveway and he has incidents that the maintenance people of St. Johns plow snow where he just shoveled. He noted St. Johns has not been a very good neighbors and he needs the church to be a little more considerate to the homeowners on the street.

Diane Cecchi (*1684 E. River Street*) she stated she has been a licensed clinical worker for over 35 years and has worked in trauma centers where she has had to place women in shelters and has taken a good look at Genesis House from a professional perspective and see more regulations there then at the convent when she was there. She stated if the facility is good enough for nine religious women then it should be good enough for women and children. She continued it is an adequate facility and if there is a car/vehicle issue it is because a women and child is living there and women and children who are homeless generally do not have a car and most are there because of physical, mental or financial issue.

Linsey Cummins (*725 N. Union Street*) she stated they are not against the Genesis House, it is the issue with the exception and the ability to do whatever; they want with the property which includes the school. She is concerned about the community and the people that will be moving in and out.

Geraldine Smith (306 E. Henley St.) she has been a neighbor of the Genesis House and has never had any issue with the people at the Genesis House and feels the people's fears are unfounded and they are having trouble listening to the argument of what is being said. She feels nobody is listening to what is being said.

Mike Kelley (1700 Stardust Lane) he stated he is a long term recovery of 25 years, He was embraced by Olean and there is no proof or documentation that homeless people create drug problems. He continued if Olean has drug problems then they should clean up their parks where drug users hang out.

A MOTION to close the public hearing at 6:59 pm was made by Shayne Certo, seconded by Otto Tertinek. Voice vote, ayes all, Motion carried.

Adjournment

A MOTION to adjourn was made by Thomas Enright, seconded by Otto Tertinek. Voice vote, ayes all, Motion carried.

Next Meeting Date

The next Zoning Board meeting has been scheduled for Thursday, August 9, 2018 at 5:30 p.m. located in the Council Chambers. Meeting adjourned at 7:04 pm.