

City of Olean
ZONING BOARD OF APPEALS

Minutes for Zoning Board
Meeting held on October 25, 2018

1. Roll Call

Shayne Certo called the meeting to order at 5:31p.m. Thomas Enright read the roll call. All members were present.

Present:

- Jerry Lefeber
- Charlotte Hardy
- Thomas Enright
- Otto Tertinek
- Darryl Bloom
- Shayne Certo
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Staff:

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

1. Old Business:

Reading and approval September 27, 2018 meeting minutes.

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

Reading and approval October 11, 2018 meeting minutes.

A MOTION was made by Darryl Bloom, seconded by Otto Tertinek to approve the meeting minutes as is: Voice vote, ayes all. Motion carried.

2. Public Hearing:

140 N. 15th Street- House Area Variance

Thomas Enright read the application 140 N. 15th Street aloud. The applicant is requesting an Area Variance to add 8' addition to front of house where the porch is now and then add 4' new porch to front of addition: If granted it will vary from Chapter 28 Article 6 Section 6.1 of the Zoning law.

Jeff Miles was present to represent the area variance. 8 ft to the front of the house, currently the front porch is 8' from the house. He would like to remove the front porch and add an 8' addition with a smaller front porch. He noted he has been looking at other houses for five years and nothing within reason has been available.

Shayne opened the public hearing at 5:36 p.m.

No comments

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

Otto questioned if he was removing the porch and installing footings. Jeff replied he would.

A MOTION to accept the variance without conditions was made by Thomas Enright, seconded by Charlotte Hardy. Voice vote, ayes all. Motion carried.

140 N. 15th Street- Garage Area Variance

Thomas Enright read the application 140 N. 15th Street aloud. The applicant is requesting an Area Variance tear down garage and build new one in the same place: If granted it will vary from Chapter 28 Article 6 Section 6.1 of the Zoning law.

Jeff Miles stated the garage is unsalvageable and needs to be replaced. He would build in the exact same foot print of the existing garage.

Shayne opened the public hearing at 5:40 p.m.

No comments

Shayne closed the public hearing at 5:40 p.m.

Shayne reviewed Finding and Decision.

A MOTION to accept the variance without conditions was made by Darryl Bloom, seconded by Shayne Certo. Voice vote, ayes all. Motion carried.

422 East State Street- Use Variance # 010-18

Thomas Enright read the application 422 East State aloud. The applicant is requesting a Use Variance to utilize the first floor as residential in General Commercial Zone: If granted it will vary from Chapter 28 Section 4.5.2 (18) of the Zoning law.

Shayne questioned if all members of the board had received part 1 of the SEQRA.

Michael Keith (Hunt Engineering) presented a power point.

Lenny Liguori (Directions in Independent Living) represents the local support agency and feels this project and company is so great that they are applying for a 1.3 million grant thru their office. He explained this will be used for ten units for individuals with developmental disabilities so they can live independently and his agency will provide an array of support services so they can increase their chances of living independently.

Ray Wetherbee (Director of CDS Housing) explained they are a nonprofit mission based organization like Directions in Independence Living. The primary focus is providing programs, services and housing for individuals with intellectual and developmental disabilities. He stated the project is considered affordable, integrative housing. The development would consist of 46 apartments, 10 would be for individuals with disability that Lenny Liguori mentioned and 36 will be affordable for individuals and families earning up to 50% - 60% of the area medium income. He noted they are going to invest over 13 million dollars into this facility to build modern apartments with community rooms, elevator, and exercise room and computer center. He noted the entire building is handicapped accessible.

He explained the project is looking to clean the entire area which will include new lighting and a new roof. His existing property is zoned general commercial and multifamily is a permitted use however; not on the first floor and that is why a use variance is required. He explained the first floor has exposed steel columns every 12-15 feet, the entire warehouse has unfinished walls, ceiling and a concrete floor and is very difficult to turn into open retail space. The total square footage of the first floor is 37,600 and to renovate is about \$8.00 a square foot and getting a loan for that type of renovation that is required would be impossible. He noted the site is small and could only fit 71 parking spaces for retail and the current code would require 188 spaces, Commercial would be 125 spaces. He explained the area is high density residential housing and other apartment complexes. He noted Brookside apartment is .50 mile, Moss apartment is .35 miles and Aspen Towers is .35 Miles and site itself slopes from State Street to the back several feet and 30 feet inside the building is stepped and contains a 4 ft wall, these issues are considered handicap issue.

He stated the project will not change the essential character of the neighborhood since due to residential housing and apartment complexes are all around it. He noted it is like the building was built and housing was built around it. He explained the hardship is not self created and the property sale is contingent an approved variance, and since the owner is applying for the variance the application is deemed legitimate.

Otto questioned if they are applying for grants to fund the 13 million. Ray responded he will be submitting a grant to New York State Homes and Community Renewal to secure grant funding and with the 1.3 million grants that Lenny will apply for that is how the project will be funded.

Otto questioned why only 3 handicapped spaces when 71 are being proposed. Michael Keith (Hunt Engineering) he responded it meets ADA code requirements and the entire parking lot will be ADA accessible, He noted for every ADA parking spot stripped out they would lose a parking spot.

Ray Wetherbee (Director of CDS Housing) stated per Code 81 parking spaces are required to accommodate this project in which, 10 apartment units are for people who cannot drive and do not own vehicles and only 36 apartments that would need parking spots of which most of individuals will have none or 1 vehicle.

Thomas questioned the ingress and egress situation of the parking lot. Ray responded access would be from Fulton Street and egress onto State Street.

Shayne opened the public hearing at 6:13 p.m.

Michelle McGraw (410-411 E. State St.) she questioned if this was a non for profit organization and if they are paying city, school and county taxes and if so is it prorated. She questioned if there is going to be a property manager and if a water study has been done for the increase of water usage. Ray responded they are a non for profit but will be paying taxes since there will be a bank involved and potentially after 30 years pay back it could be non taxable property. He stated they hire an outside managing company to take care of the property and an office will be on site Mon-Fri. and also a maintenance person.

Deseree Washington (Independent Living employee) states she would not only qualify but benefit from a place like this since she is a single mom of two.

Paul Petruzzi (multiple properties owner) has grown up in Olean and vested also with multiple properties and fears this would befall the neighborhood. He noted he would never prevent anyone to make a reasonable return on a property and is taking personal feelings out of the equation. He stated with respect to the entrance and egress, Fulton Street is a one way street and every house was built on State Street and Fulton Street was built prior to 422 E. State Street and this is not the answer to good, clean and affordable housing. He stated this building was purchased in 1998 from the URA for \$40,000.00 it could have been readapted at that time for office spaces and recently Toads Butcher shop could have been places there. He referenced court case *Everhart V. Johnston*. He stated there are no facts to support the use variance four criteria. He questioned where visitors going to park. He stated this will be the biggest housing project under one roof in Olean and questioned who will be there to help the disabled. He noted this is a self created hardship under case law.

Paul addressed the area variance diagram where the parking area goes toward Fulton Street. He stated it use to be 2 separate lots in an R3 and was combined when the URA took over. He continued to explain the entrance and egress was located on State Street when Market Basket

was there and the road is still present. Paul questioned where the water runoff will be and if it will go directly into people's residential homes located at the bottom of the street. He stated there are kids at the park and cars coming out of the parking lot will fly down the street. He noted it is very difficult to oppose this however; opposing it makes more sense than going with it.

John Hanigan (401 E. State Street) states he owns the Century Manor property almost across the street from the proposed project. He questioned if there will be a care provider on site for the disabled; and is concerned about traffic entrance and egress with additional traffic flow. He questioned if they are going to be demolishing part of the building and if so what about the environmental concerns. He questioned how many bedrooms are going to be in these apartments and concern about children with the river and trail right there.

Ray responded they are going to be tearing down a portion of the building and will be working with the state and state funding which will require them to have all the necessary testing. He noted that there will be a case manager assigned to them from Directions of Independent Living.

Bill Burton (125 Fulton Street) stated they are going to eliminate his off street parking and overflow parking for his three unit apartment building located in the rear of his property, and also a 2 car garage for a neighboring property. He noted the overflow parking from this project will be taking all parking on Fulton Street.

Ray responded they are utilizing their property and is not aware they are on any neighboring property. He questioned if Bill Burton tenants are parking on someone else's property.

Nate Smith (422 E. State Street) stated his family has owned this property since 1998 and to his knowledge it is not a Public Street, but a private driveway. He has never considered this true off street parking but parking in the backyard of the property in which occupants conveniently use his driveway. He noted nobody has ever asked permission, or maintained the driveway and he did not create this situation for them and do not know how to address that.

Nate explained he has no intentions on disrupting anyone's life, and has researched the company and they are clean and nice and not slums. The warehouse is an unusual building, it is very large, two stories and maintenance intensive between the upkeep, utilities and the taxes cost between \$40, 000.-\$50,000 per year every year. He stated the sprinkler system is maintained, the roof is currently being worked on, and the electric and water. He stated they tried to make the warehouse profitable or at the least break even.

Harold Bell (124 Fulton St) questioned if anyone taken into consideration the neighborhood and the vehicle traffic, foot traffic and the parking lot lights shining in all neighborhood windows. He does not want to look at a parking lot.

Justus Derox (116 Fulton Street) stated the density is going to be a major problem and integrating people into the neighborhood and does not see how this will appreciate the neighborhood.

Adele Sawaya (sister to 122 Fulton Street) stated there is so much traffic already and people are driving the wrong way. She noted this is not the correct location for this property

Robyn Land (116 Fulton Street) took a walk down the street and counted 23 houses corner to corner and this problem doubles the impact on the street and the parking.

Mark Curletta (CDS Housing) explained how the state services individuals with disabilities over the years and how state funding criteria operates. He noted they operate other beautiful facilities.

Sally Jadowski (122 Fulton Street) there has been years and years of subsidized housing in the area and this will waste all the valuable properties that already exist that are not subsidized. She explained the parking on Fulton Street is already an issue.

Lenny Liguori (Directions in Independent Living) the city can make a statement for people with disabilities. Individuals with disabilities have an opportunity to live independent and within the community.

Bill Burton (125 Fulton Street) he stated someone purchased that building years ago and cannot seem to make any money on it and has found someone to utilize it and that is what it boils down to.

Edward Jennings stated he has some information regarding the parking and will need to be researched for legality and will get that information to the board. He addressed the water and lighting concern and stated that it will be addressed by the Planning Board if the Use Variance is granted.

Paul Petruzzi (multiple properties owner) questioned if the applicant has explored every permitted use per case law study and if the applicant cannot realize a reasonable return from each of the permitted uses in the zoning districts as per Department of State (pdf), Zoning criteria. He questioned if the applicant has explored each of the permitted uses as per page 11.

Edward responded he is not totally sure for each and every one. Otto stated he does not believe they have to show each and everyone and he will ask the attorney.

Charlotte questioned from page 1 that the area income right now is \$13,500.00 qualify for low income housing, and they are proposing for people with income of \$28,000-\$32,000.00 per year. She stated Olean Housing in services people up to \$32,000.00 per year and they have several housing development in the area and is questioning if they have actually investigated the Housing in the area. Ray responded the majority of existing housing is targeted at fold 0-30% income and not all of them. He stated he met with Ann Kavari and also did a market study and a housing inventory of the surrounding area. Charlotte stated this desirable project will create an issue for older and not as new housing in the area. Charlotte clarified that people who already have affordable housing will see much nicer affordable housing and will gladly move there while creating vacancies elsewhere. Charlotte requested prior to next meeting they speak with Housing Authority and what the vacancy rate is and how long it takes for a turnaround in the apartment. Charlotte noted she feels they deserve that since they have had that in the community for so many years. Ray responded they spoke and toured the building with Ann Kavari. Charlotte

reiterated they would like to see proof of that information since this could affect the neighborhoods.

Shayne requested a copy of the market study that was performed.

Jerry questioned if granted a use variance, how long will take to start/complete the project. Ray responded roughly 14 months.

Shayne closed the public hearing at 7:48 pm.

A MOTION was made by Shayne Certo, seconded Darryl Bloom to table the meeting until additional information from the applicant can be obtained. Voice vote, ayes all. Motion carried.

Thomas Enright read the application 422 East State aloud. The applicant is requesting a Area Variance for 71 parking spaces and proposed where code requires 81: If granted it will vary from Article 28 Section 10.3.2 of the Zoning law.

Shayne opened the public hearing at 7:47p.m.

No comment

Shayne closed the public hearing at 7:47 p.m.

A MOTION was made by Shayne Certo, seconded Charlotte Hardy to table the meeting until additional information from the applicant can be obtained. Voice vote, ayes all. Motion carried.

Adjournment

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

Next Meeting Date

The next Zoning Board meeting has been scheduled for Thursday, November 8, 2018 at 5:30 p.m. located in the Council Chambers. Meeting adjourned at 7:56 pm.