

City of Olean Zoning Board of Appeals Meeting Minutes

Thursday, May 27, 2021

Attendance: **Members:** Jerry lefeber
Darryl Bloom
Charlotte Hardy (via Phone)
Kelly Sweet
Otto Tertinek
Arnim Alexander
Thomas Enright

Staff: Account Clerk Typist, Kathleen Hewitt

1. Roll Call

Recognizing a quorum, Chairperson Jerry leFeber called the meeting to order at 5:30 p.m. and requested the roll call showing all members present. Jerry leFeber, Darryl Bloom, Arnim Alexander, and Thomas Enright. Charlotte Hardy (via phone) and Otto Tertinek. Kelly Sweet sent an email she would be late. Kelly arrived at approximately 5:38 pm.

2. Reading and approval of the May 13, 2021 meeting minutes.

A motion was made by Thomas Enright, seconded by Darryl Bloom to amend the May 13, 2021 meeting minutes as followed. (1) Page 3: "Kathy said it went to the Zoning Board of Appeals and could be FOIL'ed". Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander and Thomas Enright. Motion carried.

3. New Business

Just Life Association & Paul Pezzimenti (Parking Waiver # ZBA-2021-11) 1803 W. State Street

Thomas Enright read the application for a Parking Waiver from the applicant, Just Life Association & Paul Pezzimenti, to allow 4 off-street parking spaces in place of the required 7.5 spaces. If granted it will vary from the requirements of: Chapter 28, Article 10.3.2 of the Zoning Law.

A motion was made by Darryl Bloom to set a Public Hearing for June 10, 2021 at 5:35 p.m., seconded by Otto Tertinek. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Arnim Alexander, Charlotte Hardy, Otto Tertinek and Thomas Enright. Motion carried.

Public Hearings

Chairman leFeber questioned why Paul Pezzimenti was not in attendance to represent the use variances. He explained to the general public in attendance that usually the process is that the applicant has an opportunity to explain the application, Board members would then ask questions, and then community input would give their comments.

Kelly Sweet arrived at 5:38 p.m.

92 Astor LLC & Paul Pezzimenti (Use Variance # ZBA-2021-07) 321 North First Street.

Public hearing was opened at 5:38 p.m.

Chairman leFeber read Findings and Decision

- 1. Whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties:*

Kelly questioned if they had enough information to proceed and would like to know how many units and kitchens are in each building.

Otto Tertinek stated that they are currently boarding houses and are looking to stay as boarding houses.

Thomas Enright commented that they have been boarding houses for years and years.

Otto Tertinek explained that they are changing ownership, not changing dynamics and each one has already been approved as boarding houses by previous Boards. He noted that they should not have to reinvent the wheel if past Boards have already approved it.

Kelly Sweet questioned if it was previously approved by past Boards, or if there are conditions that each owner needs to come back to the Board. She noted that is not the norm, and it usually just goes with the property and questioned why this application is in front of them.

Chairman leFeber stated without an applicant to ask, he cannot get the answer.

Thomas commented that he assumed that Mr. Pezzimenti went to the code office and they did a search of the Article 28 and discovered that boarding houses are not listed except in definitions. He reiterated that he was surmising that whatever steps Mr. Pezzimenti needs to take for whatever reason a boarding house, lodging house or rooming house is only listed in definitions.

Chairman leFeber commented that whenever a property changes hands, the code enforcement makes sure it is properly done. He stated that code enforcement wants to stabilize what the status quo is for the eventual sale. Thomas stated that he is just guessing and is not sure.

Chairman leFeber stated that he is in a quandary right now since the applicant is not here to answer any questions, and that the general public is here to discuss the application and address these issues.

Darryl Bloom stated he does not see why the public cannot address their views tonight. Kelly agreed. He suggested that we put a pause on the decision.

Charlotte Hardy explained that she does not feel that it is appropriate to hear the comments without the applicant being present. She feels that the applicant would not be able to address the comments from the Board or neighborhood and also the neighborhood should get their questions addressed by the applicant as well. Charlotte agreed with the suggestion to put a pause on the decision.

Kelly explained the applicant made the choice to not be present and this is a public meeting and the voices of the neighborhood should be heard.

A motion was made by Darryl Bloom, seconded by Kelly Sweet to leave the public hearing open after the conclusion of tonight's public hearing and continue it at the next meeting of June 10, 2021 @ 5:40 p.m. so the applicant can be heard as well. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Chairman leFeber questioned if there are any public comments on 321 North First Street.

No public comment.

Chairman leFeber stated they will wait on doing the "Findings and Decision" until next meeting.

Kelly requested for the following information.

1. How many bedrooms?
2. How many kitchens?
3. What makes it a boarding house?
4. Is the boarding house up to Code?

A motion was made by Kelly Sweet, seconded by Darryl Bloom to leave the public hearing open and continue it at the next meeting of June 10, 2021 @5:40 p.m.. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

**92 Astor LLC & Paul Pezzimenti (Use Variance # ZBA-2021-08)
125 South Barry Street.**

Public hearing was opened at 5:53 p.m.

Kelly requested for the following information:

1. How many bedrooms?
2. How many kitchens?
3. What makes it a boarding house?
4. Is the boarding house up to Code?

Tina Bell (130 S. Clinton Street) stated she lives right behind this property and it is a problem property. She explained that there is a big drug and traffic problem day and night. She explained that her dog has been shot by a BB gun, and they have called the Sheriff's and the City police multiple times. She further explained it is the apartment on the sides and the rear apartment. She stated that they do not know who even lives there and that drugs and shoes are being sold out of the car and the City is not doing anything about it.

Susan Bly (136 South Barry Street) explained that on April 24, cops were called twice, on April 28, there was screaming and fighting and on May 18th, they listened to people screaming and fighting again while her grandkids were over. She read Kathy Marzec's letter which was allowed (see attached). Susan stated that at one time it may have been a boarding house with supervision, and now it is just a free for all.

Unknown Citizen stated she spoke with Brett Sikora (owner) and Nathan (property manager).

Benjamin Hollamby (Olean Community Theater) explained since they purchased the Theater building the frequency of traffic that goes into this house is unreal. He stated that there was a purple BMW stashed behind the house selling drugs and shoes and when he walked back there he felt his life was in danger even when he was on his own property. Benjamin called the cops and they did not do anything. He explained that this Board has the ability to stop this problem with a denial of this variance and have the house returned back to a one family house and fix this problem. He noted that the owner or applicant did not even show up to this meeting and if the Board members had to live next to this house they would not want to cast a vote in favor. Benjamin stated that the tenants in that house displayed a sign with an explicit term message on it.

Ronald Dyal (121 S. Barry Street) explained what everyone is saying is just the tip of the iceberg. He cannot even park in his own driveway because everyone thinks that his driveway belongs to that house and they park there and use the window to get in. He reiterated that he witnesses everything from the front side of the house. He noted that the cops did show up at one point and now feels they have gotten tired of showing up or participating in anything. He requested that it just be a family building.

Benjamin Hollamby (Olean Community Theater) stated the City has ample housing for residents and a boarding house in Olean is not needed.

A motion was made by Kelly Sweet, seconded by Thomas Enright to leave the public hearing open and continue it at the next meeting of June 10, 2021 @ 5:45 p.m.. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

**92 Astor LLC & Paul Pezzimenti (Use Variance # ZBA-2021-09)
111 North Clinton Street.**

Public Hearing opened at 6:04 p.m.

Kelly requested the following information.

1. How many bedrooms?
2. How many kitchens?
3. What makes it a boarding house?
4. Is the boarding house up to Code?
5. Would like to have copies of Landlord Registrations on all 3 properties.

Carole Laverty (107 N. Clinton Street) explained the gentleman from California who previously owned the house always addressed the issues in a timely manner. Since the new owners purchased the property they have had to call the police, witness people in and out all the time with no accountability. Noise and language is an issue and the traffic is constant. She noted that the disabled gentleman that lives there is treated with disrespect and they are mean to him and this individual cannot handle it. She stated there is no supervision or anyone that they can call for assistance. Also there is a gutter hanging over their vehicle and could cause damage.

Benjamin Hollamby (Olean Community Theater) said these 3 buildings combined have over 30 rooms.

Lisa Foster (115 & 117 Clinton Street) lives in Olean and has a few properties. They put in so much work into their properties since this is their retirement. She stated that nobody wants to rent from them since they own property next to this building.

Michael Foster (115 & 117 Clinton Street) stated they have people in and out all the time. He explained they have a shared driveway and have lost 3 tenants so far because they keep parking in the entire driveway. He stated that the guy that lives in 111 Clinton Street got aggressive with their new tenants and the tenant moved out. He requested that the Board come and sit at their properties and witness the issues.

Susan Bly (136 South Barry Street) questioned the Board what they should do to stop this. Should they take matters into their own hands or contact the mayor?

Lisa Foster (115 & 117 Clinton Street) questioned why Code Enforcement has not done inspections on these buildings. She noted that every time they have a change in tenants then they have to get an inspection and they have to pay for that.

Jerry advised that citizens should not take matters into their own hands, but to contact the proper channels such as the mayor or common council. Jerry explained that this Board's job is to either approve or disapprove the variance request.

Darry noted that these properties are degenerating into bad properties.

Arnim questioned if they should wait until June 10, 2021 for Mr. Pezzimenti. He questioned what Mr. Pezzimenti could say to change their minds on the votes of these establishments.

Thomas explained that the representative has the right to air their views, and the Board already voted to keep the hearings open until June 10, 2021.

Darryl agreed with Arnim, and would be willing to join in a Motion to end the hearing. Darryl further explained if they denied it tonight or at the next meeting it will not solve the neighborhood's problems. He noted they would still have to go through legal challenges.

Jerry stated that he had spoken with Paul Pezzimenti and his answers were very vague. He noted that he was very disappointed.

A motion was made by Kelly Sweet, seconded by Darryl Bloom to leave the public hearing open and continue it at the next meeting of June 10, 2021 @ 5:50 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

5. Next Meeting Date

The next Zoning Board of Appeals meeting has been scheduled for Thursday, June 10, 2021 at 5:30 p.m.

6. Adjournment

A motion to adjourn was made by Darryl Bloom, seconded by Arnim Alexander. Voice vote, ayes all. Motion carried. The meeting ended at approximately 6:38 p.m.