

Jerry leFeber explained it has come to the Board's attention that his 40 ft. curb cut was denied. Paul Pezzimenti responded that this is correct. He was trying to get a parking lot on the side of the building and without having the curb cut they cannot have the parking lot.

Jerry questioned the 4 off-street parking spaces.

Paul explained they felt there was enough parking on the side of the building even if it was parallel parking. He noted that he has a call into Mr. Ring to see if there is an alternative option that could be worked out.

Otto Tertinek questioned how many units will be put in this building. Paul responded that there would be 4, potentially 3, but they are shooting for 4.

Thomas questioned if they could move on this since they do not have the parking that was intended for this property.

Jerry stated it would be difficult to move on this. He explained to Mr. Pezzimenti that they could table this until he gets it in order, or he could pull his application all together.

Mr. Pezzimenti stated that he does not want this delayed since the district attorney already delayed it due to it being a religious organization.

A motion was made by Thomas Enright, seconded by Otto Tertinek to table the parking waiver until the applicant get the proper clearance from proper authorities. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Kelly Sweet arrived at 5:38 p.m.

A motion was made by Darryl Bloom, seconded by Otto Tertinek to close the public hearing. 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-2021-07)
321 North First Street.**

Thomas Enright read the application for a use variance from the applicant, 92 Astor LLC & Paul Pezzimenti, to allow for the property to be used as a boarding house. If granted it will vary from the requirements of Chapter 28, Article 4.2.2 of the Zoning Law.

A motion was made by Kelly Sweet, seconded by Darryl Bloom to reconvene the public hearing from the previous meeting. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Paul Pezzimenti (applicant) apologized for not being in attendance at the May 27, 2021 meeting as he was out of state and was under the impression that it was a Zoom meeting.

Brett Sikora (273 Sixteenth Street, Jersey City, NJ) stated he is the owner of 92 Astor LLC. He explained when he initially purchased the property in 2016. According to Brett he spoke with Ed Jennings at that time regarding the zoning, and Ed Jennings stated he would never have an issue since they were grandfathered in. Brett explained that he was also unable to get financing on these properties unless it was grandfathered in with zoning as well. When Brett listed the properties with his realtor Paul Pezzimenti, that is when all of this started to unravel. He explained that he has always owned the property and operated quite well and unfortunately due to Covid some tenants illegally moved in without approval.

Kelly questioned if Brett had filed a landlord registration with the City Code Enforcement office. He stated he would prefer that his current and previous property managers answer these questions since he lives approximately 6 hours away.

Kelly explained she would like to know how the application was submitted, how many units, how many rooms, and how many residents were listed and the property manager information and what the use was for. She further explained there is no such thing as a “grandfather” it would just be “non-conforming”.

Robert Pundt (3305 Pennsylvania Rd, Olean) stated he is the previous property manager and he is a member of 92 Astor LLC. He explained during the time he was managing the property he was in contact with Ed Jennings regularly, and Ed would regularly walk through the properties. Ed made sure there was smoke and carbon detectors. He stated they have done inspections on this property and codes felt that since it was a boarding house they would only do inspections every 6 months. He noted that there was a gentleman that took Ed’s place that did walk through the building and has done regular checks every 6 months. Robert stated he is no longer the acting property manager for this location.

Nathan Walrod (NT Property rentals and Maintenance LLC) stated that he took over as property manager when Robert Pundt retired. He stated he has an onsite property maintenance person that he speaks with daily and Nathan came into town regularly as well.

Arnim Alexander questioned if Nathan was aware of the outcry of the neighborhood towards these properties and management. Nathan replied that he was aware of the issues.

Kelly questioned if the Olean Police Department ever contacted him regarding all of the complaints. Nathan stated that he spoke with an officer back in March regarding the 125 S. Barry Street but other than that he has not spoken with any other officer.

Nathan explained things were operating pretty smooth up until Covid hit. Since then they contacted a few local attorneys to evict tenants, however, the court system is backlogged and they are unable to evict the tenants. He stated they are just trying to keep the properties maintained at this point until the evictions can happen and they have reached out to Tomes & Lord out of Franklinville and evictions have been served and they are not rightful tenants.

Otto questioned how many living areas does this house have and how many live at this property. Nathan replied they have 9 separate sleeping quarters and currently 7 are there with permission.

Thomas read the definition of a boarding house per the City code:

BOARDING HOUSE

A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to non-transient guests. A lodging house, or rooming house shall be deemed a boarding house.

Jerry, Kelly and Thomas agreed the house was over the 6 room limit already with 9.

Thomas commented that they had many, many justifiable angry neighbors at the last meeting and the Board felt ambushed and was not aware of these issues. He explained the Board is responsible for the community and the people they serve and they/we live here all the time.

Brett Sikora (273 Sixteenth Street, Jersey City, NJ) questioned what the city would like him to do with these properties now. He reiterated that he only purchased these properties because of Ed Jennings statement. He noted these are legal 3 family houses, and from an investors point there is no dollar value difference from a boarding house to a 3 family house. He noted that there are a lot of good tenants that will be affected by this decision, and a lot of these problems are driven by a police department that does not want to get involved. He reiterated that due to Covid they cannot evict and remove people from his properties.

Charlotte Hardy questions why nobody was at the last meeting to represent the application. Mr. Pezzimenti responded that initially it was supposed to be a Zoom meeting and he was going to be out of town. He found out a day or two prior to the meeting that it was going to be in person. Brett noted that he was not informed that he needed to be present.

Charlotte questioned how many tenants are in the residents now legally. Nathan responded that every tenant is screened, background checked, references checked and interviewed. He stated all tenants that live in the house currently have a lease except the squatters. He explained that they have rules and responsibilities in the house that must be followed, which includes fighting.

No public comment on this use variance.

A motion was made by Kelly Sweet, seconded by Darryl Bloom to close the public hearing at 6:16 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Chairman leFeber read Findings and Decision (see attached).

A motion was made by Darryl Bloom, seconded by Otto Tertinek to close the public hearing. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Chairman leFeber read Findings and Decision

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the Zoning district or neighborhood):
3. The requested Use Variance, if granted, will not alter the essential character of the neighborhood:
4. The alleged hardship has been self-created:

A motion was made by Kelly Sweet, seconded by Otto Tertinek to deny the variance due to the applicant DOES NOT outweigh the detriment to the neighborhood or community. 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.**

A motion was made by Jerry leFeber, seconded by Kelly Sweet to reconvene the public hearing from the last Board meeting. Public hearing opened at 6:24 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Thomas Enright read the application for a use variance from the applicant, 92 Astor LLC & Paul Pezzimenti, to allow for a continuous use as a boarding house. If granted it will vary from the requirements of: Chapter 28, Article 4.2.2 of the Zoning Law.

Brett Sikora (273 Sixteenth Street, Jersey City, NJ) stated this is the problematic property due to law enforcement and Covid guidelines for evictions, and squatter's rights. He stated this was the property he was referring to previously. Brett explained he has had the property fixed numerous times and the problematic squatters keep destroying the property again and again.

Jerry questioned what his definition of a squatter is.

Brett responded by illegally taking over an apartment, someone who does not pay rent or do an application to be there and they do not have a signed lease. He reiterated that he cannot legally get them out and they have been in contact with law enforcement.

Otto questioned if these squatters were invited by occupants that live there. Brett responded that no tenant invited them in, the tenant that was there was pushed out of her apartment and told her to leave and they took the apartment over.

Arnim questioned what is to stop this from happening again if this property remains a boarding house. Brett responded the answer would be law enforcement and that would be no different for a 2 or 3 family house or a condo. He noted that illegal entry is illegal entry and unfortunately it is protected.

Darryl Bloom questioned if there was an active open complaint that would verify this information.

Nathan Walrod (NT Property rentals and Maintenance LLC) stated he spoke with the police officer that was on premises and according to Nathan, the police stated that they have squatter's rights and the police cannot do anything about it and they would have to file an eviction with the courts. Nathan reiterated that the eviction court was not an option due to Covid.

Brett explained that after the last meeting he was forwarded a newspaper article and it was quoted by an individual that does not reside in the house that when they call the local police department, the police state they will not go to that address. Brett noted that it is not a good look.

Darryl commented that he is perplexed that a resident cannot get physically removed from an apartment and these are criminal activities.

Brett reiterated that these are not property maintenance issues, these are criminal issues and the police do not assist.

Nathan Walrod stated that everyone has his phone number and nobody has contacted him, and the police officers are not issuing tickets or arrests either. Nathan further explained that he even went as far as offering the squatters money to leave. He had a property manager who lived in the house to report to him daily of the issues and these problems have not been ignored.

Otto questioned how many occupants are living there and number of units.

Nathan Walrod responded 9 units and 11 or more occupants, of which 8 are legally allowed to reside in the house and everyone else is illegally staying. He noted that utilities are shared throughout the house except the studio apartment.

Charlotte questioned how many beds are in the property. Nathan responded there are 9 beds, one for each room.

Charlotte questioned what the eviction process is.

Nathan responded that the courts have finally opened up and they have located an attorney to handle these evictions, and the evictions have been served and court has been scheduled towards the end of July.

Kelly questioned if there were any rooms in the basement. Nathan responded that all rooms were upstairs.

Charlotte questioned what their plans were to change from a 9 bed boarding house to a 3 unit house so they will comply with the zoning regulations. Brett explained that he just found out in this meeting about the zoning, and reiterated that he previously discussed this with Ed Jennings prior to his retirement, and Ed was very helpful with him purchasing these properties with his bank and Ed never mentioned this issue.

Otto questioned if he did a walk around the properties today and what his plans are to clean up the litter and debris. Nathan stated he will get it cleaned up immediately and received images of a few broken windows and railings that he will also be addressed.

Donald Blocher (125 S. Barry Street apt. C-1) explained he has been a resident at this house since December 2017. He explained that he spoke with Robert Pundt and it was his understanding that he was renting a single room, single occupancy apartment with a shared kitchen and shared bathroom. He explained they do not prepare meals for each other, he uses the fridge and everyone respects each other's items. Donald explained that he was standing on the front porch when Ms. Megan Ford came home and her inner door was opened and Eric Nelis placed his hands physically on her, shoved her backwards and told her to get out of there and that they are living there now and the next thing they all knew a gentleman James and a women Jocelyn are living in this apartment and they are scary people. He noted they use people on the street and he has personally called law enforcement and they state they cannot arrest them due to the no bail clause. He stated that he does not feel comfortable in this house due to these individuals and they do not belong in the house. He stated the rules in house are no alcohol or illegal drugs and everything was fine until Covid started. He stated since he moved into this house his credit has been straightened around, he has some money in the bank and appreciates living in a house that does not allow alcohol. He noted it is located next to the police station, farmers market and churches and feels this is a great situation for him. He explained that he has an extensive text history with Robert Pundt and Mr. Walrod and all their concerns have been addressed.

Alicia Bell (130 S. Clinton Street) stated she has had problems with everyone and it is not just the squatters. She explained there was an overdose the other night and she was the one that called it in. If she did not call the police and ambulance that night he would have died. She reiterated that she has called the cops, wrote to Albany and they have talked to everyone they can think of regarding this property. She further explained there is traffic every day, they have to look in their backyard every day for anything that may kill their dogs. She feels this house should be made into apartments and not a boarding house.

Tina Bell (130 S. Clinton Street) stated the studio apartment in the rear is the location that has a lot of people in and out nonstop. The night of the overdose she called the cops regarding an assault on an individual. She explained the details of the car to the officer of who did it and before they would show up the driver drove off, and then they noticed it was an overdose. She stated the cops never went looking for the car, and it is there at least one time a week for drugs.

Tammy Shattell (125 S. Barry Street apt. C-2) stated that the downstairs person “Valentine” is another problem. She explained she sells drugs, sells her pills and has her boyfriend living there illegally. She noted they party all the time and the downstairs is just trashed and she has called the cops numerous times and the cops keep saying it is “catch and release” because of Cuomo’s bill. She stated that they have tried to speak with the downstairs people and telling them that they are drawing attention to the house. She stated Miguel is the person who lives in the rear apartment with all the problems and the police are not doing anything about the problems in this house.

Kathy Marzec (131 S. Barry Street) has lived at this residence for over 40 years and currently there is no policing and this house runs the neighborhood. She is not sure what can be done and really hopes the City will step up and help them out.

A motion was made by Kelly Sweet, seconded by Darryl Bloom to close the public hearing at 7:04 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Chairman leFeber read Findings and Decision

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the Zoning district or neighborhood):
3. The requested Use Variance, if granted, will not alter the essential character of the neighborhood:
4. The alleged hardship has been self-created:

A motion was made by Kelly Sweet, seconded by Thomas Enright to deny the variance due to the applicant DOES NOT outweigh the detriment to the neighborhood or community. 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.**

A motion was made by Kelly Sweet, seconded by Thomas Enright to reconvene the public hearing from the last Board meeting. Public hearing opened at 7:06 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Brett Sikora (273 Sixteenth Street, Jersey City, NJ) commented that it is the same story as the other addresses.

Thomas questioned how many units and beds are located in this address. Nate responded there are 11 units, 11 beds and a total of 10 tenants.

Charles Hoch (111 North Clinton Street) explained since he has moved here he has been welcomed left and right. He appreciates everyone for all they do and the maintenance guys do a fantastic job. He noted they may have issues on their street and may not get along but they work as one big happy family. He likes coming home from work because they all ask how his day is.

Larry Ordway (111 North Clinton Street) stated that he has been there for a long time. He likes it there and he hopes everyone will get along more and he helps the neighborhood out.

Arnim questioned how the crime has been.

Jerry leFeber stated he has a document from the police department stating that 111 North Clinton Street had 9 calls since June of 2020-present, and 125 S. Barry Street had 21 calls.

Michael Foster (1116 Olean-Portville Rd) does not understand how these properties are getting away with studio apartments. He stated he personally looked at this property due to parking issues. He stated the studio apartment upstairs did not have one window that would pass code for egress and there are no windows in the basement studio apartments. He noted they were not allowed to go into other bedrooms because of dead bolts on them.

Unknown Citizen questioned how many times code enforcement has to inspect these apartments. Kelly responded her understanding is that every time there is a change in occupancy.

A motion was made by Darryl Bloom, seconded by Otto Tertinek to close the public hearing at 7:21 p.m. Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Chairman leFeber read Findings and Decision

5. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:
6. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the Zoning district or neighborhood):
7. The requested Use Variance, if granted, will not alter the essential character of the neighborhood:
8. The alleged hardship has been self-created:

A motion was made by Kelly Sweet, seconded by Otto Tertinek to Deny the variance due to the applicant DOES NOT outweigh the detriment to the neighborhood or community.

Voice vote, ayes: Jerry leFeber, Darryl Bloom, Charlotte Hardy, Otto Tertinek, Arnim Alexander, Kelly Sweet and Thomas Enright. Motion carried.

Thomas suggested that everyone look at in the Zoning Book Section 9.0.4 Standard for Granting Special Uses. He feels the Board took all of that into consideration.

5. Next Meeting Date

The next Zoning Board of Appeals meeting has been scheduled for Thursday, June 24, 2021 at 5:30 p.m.

6. Adjournment

A motion to adjourn was made by Charlotte Hardy, seconded by Darryl Bloom. Voice vote, ayes all. Motion carried. The meeting ended at approximately 7:38 p.m.