



**Zoning Board of Appeals  
City of Cortland  
Regular meeting of June 11, 2018**

A regular meeting of the Zoning Board of Appeals was held on Monday, June 11, 2018 at 5:00 PM in the Mayor’s Conference Room at City Hall.

Present: Commissioners Scott Steve, Maria Manning, Abigail Cleary, Karen Leahy, Geoffrey Peppel, and Thomas Larson

Excused: Commissioner Juliene Ray

Staff: Zoning Officer Bob Rhea, Chief William Knickerbocker, and Confidential Secretary Devon Rainbow

**Item #1 – 32 Wheeler Ave (O’Brien) – Area Variance (R1)**

- In-ground swimming pool in front/side yard, corner lot.
- O’Brien was present to speak. No undesirable change will be produced in the neighborhood by this variance; this change cannot occur without an area variance, as no alternative is available; the request for variance is substantial; the proposed variance will not have any detrimental environmental impact.
- A three-foot concrete border is intended to be constructed within the satisfaction of the board regarding distance from road, reaffirming that the distance between pool and road is measured from the border of the concrete, **not** the pool itself.

Motion to close the public hearing:

Motion: Larson

Second: Manning

Ayes – 7

Nays – 0

Motion to approve of the variance:

Motion: Larson

Second: Cleary

Ayes – 7

Nays – 0

**Item #2 – 206 Tompkins St (McRae) – Special Use Permit (GB)**

- Motor Vehicle services with sales.
- Motion to table this item as the county has not yet reviewed this.

Motion to table the above item:

Motion: Cleary

Second: Peppel

Ayes – 7

Nays – 0

**Item #3 – 22 VanHoesen St (Taylor) – Area Variance (R1)**

- Sunroom Addition; Taylor was present to speak.
- Because of the conciseness and simplicity of the request, no major questions or concerns were discussed.

Motion to close the public hearing:

Motion: Manning

Second: Peppel

Ayes – 7

Nays – 0

Motion to approve of the variance:

Motion: Peppel

Second: Leahy

Ayes – 7

Nays – 0

**Item #4 – 187 Central Ave (Anderson) – Area Variance (R2)**

- 6-foot Corner Privacy Fence for the front yard(s) of the corner lot; dog-eared standard. Anderson was present to speak.
- The fence is intended to be ten feet from the property line, approximately 180 feet in length. No state guidelines for distance from the street were considered. A small land dispute over whether a strip of land along the road belonged to the property owner or the city ensued; the board conceded that “if [they] mowed the same piece of land for twenty years, [they] own it.”
- No undesirable change will be produced in the neighborhood or nearby properties by this variance; this change cannot occur without an area variance, as no alternative is available; the request for variance is insubstantial; the proposed variance will not have any detrimental environmental impact.

Motion to close the public hearing:

Motion: Cleary

Second: Leahy

Ayes – 7

Nays – 0

Motion to approve of the variance, given the specifications are such that it is at least five feet on all sides from the sidewalk, at least fifteen feet from the curb, and remains on the Southeast side of the house:

Motion: Leahy

Second: Manning

Ayes – 7

Nays – 0

**Item #5 – 32 William St (Catalano) – Area Variance (R1)**

- Refurbish front porch and increase size/extend marginally; Police Chief Catalano was present to speak on behalf of the applicant.
- The lot is small; 4,000 square feet. No undesirable change will be produced in the neighborhood or nearby properties by this variance; this change cannot occur without an area variance, as no alternative is available; the request for variance is insubstantial; the proposed variance will not have any detrimental environmental impact.

Motion to close the public hearing:

Motion: Larson

Second: Manning

Ayes – 7

Nays – 0

Motion to approve of the variance, given the specifications of seven feet by ten feet with the allowance of room at the front door not herein disclosed:

Motion: Larson

Second: Peppel

Ayes – 7

Nays – 0

**Item #6 – 27 James St (White) – Special Use Permit (R1)**

- Home Occupation; this item was tabled (see Item #2)

Motion to table

Motion: Larson

Second: Peppel

Ayes – 7

Nays – 0

**Item #7 – 15 Townley Ave (Barrett) – Area Variance (R1)**

- 6' Fence in front yard; this item was tabled (see Item #2)

Motion to table

Motion: Peppel

Second: Larson

Ayes – 7

Nays – 0

**Item #8 – 2 James St. (Ruggiero) – Interpretation (R1)**

- 102-9, 102-11(c) of City Code

More information was sent from Scott via email. There is a nine-bedroom house in question.

- Rental permit texts define the terminology of “family” units. Ruggiero contests that the maximum number of individuals that could live there is four individuals, despite an inconsistent definition of a family of greater than three members. He further contests that the permit will not allow him to apply for families of greater than three members. Ruggiero contests there are inconsistencies between the codes and permit texts.
- Some integral questions remain, including discussion of businesses in R1 zones. The definition of business as it pertains to a family renting out a property is contested. The IRS states that property rental is not strictly a business, but an investment. The board contests that the IRS definition is not relevant to city administration. Renting a property to students is considered a business. Renting a property to a family may be considered a separate issue. He cannot rent to a group of four or more unless it is a functional family – this is the question at issue.
- The board found discussion to be diverging from the property issue; there is some gray area in the code. Code 102-10 states under rental registration, it must meet chapter 300 stipulations. A rental permit is intended for a “traditional” family; Ruggiero is not prohibited from listing available property for rent for more than 3 people in a family. There is no technical, legal difference in these stipulations between the permits, with exception to some minor criteria and definitions.

Motion to close the public hearing:

Motion: Cleary

Second: Manning

Ayes – 7

Nays – 0

Discussion ensued regarding the rental application, in which some information provided within the permit pass was inconsistent with the application. The rental permit may not be using the exact language in the code. The only action the board must take at this point acknowledges the appeal of the rental application. The board states that there is no restrictions to property marketing, pending the clarification as student housing or housing for a functional family. A group of six students, for example, are highly unlikely to be classified as a valid functional family. If and when the property is rented, the renter(s)/rentee(s) possess the burden of proof to fulfill the definitions thereof. It is clear to the board that there is some terminology that requires clarification in the text of the permit.

Motion to request reapplication, given editing; the rental permit, as written, incorrectly reflects circumstances against the code. The number (of inhabitants) in question should not be on the rental permit. Code enforcement will need to reissue the permit:

Motion: Leahy

Second: Peppel

Ayes – 5

Nays – 2

**Item #9 – 2 James St. (Ruggiero) – Use Variance (R1)**

Discussion:

- Discussion regarding Single Family Dwelling; applicant originally applied for a use variance for a two-family classification. He wants to use this to restore its original state of a two-family home. The city's non-conforming use regulations allows this property to be used as a two-family dwelling so long as the use is not voluntarily discontinued for a continuous period of six months.
- Discussion regarding when Ruggiero bought the house, it was a 9-bedroom, three-family house. He voluntarily discontinued the third family; it is currently classified as a single family dwelling. The change to a single family was not a formal decision, but the result of a tax assessment years ago.

Motion to close the public hearing:

Motion: Cleary  
Second: Peppel

Ayes – 7  
Nays – 0

Ruggiero withdraws the use variance.

Motion to pull the variance:

Motion: Larson  
Second: Cleary

Ayes – 7  
Nays – 0

#### **Item #10 – Discussion on new proposed Zoning draft**

- Some properties have centerlines going to the end of the street. If a property does not possess a sidewalk, we measure to the street.

#### **Minutes**

Motion to accept and approve of the minutes:

Motion: Manning  
Second: Peppel

Ayes – 7  
Nays – 0

#### **Old/New Business**

- Nothing to report;

#### **Adjournment**

Motion to adjourn:

Motion: Manning  
Second: Peppel

Ayes – 7  
Nays – 0

**I, SCOTT STEVE, CHAIR MEMBER OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NY, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 11<sup>th</sup> DAY OF JUNE IN THE YEAR 2018.**

---

**SCOTT STEVE, ZBA CHAIR MEMBER**