

Zoning Board of Appeals
City of Cortland
November 8, 2010

A regular meeting of the Zoning Board of Appeals was held on Monday, November 8, 2010, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

Present: Chair Dailey, Comm. Brown, Haskell, Hickey and Wickman

Staff: Zoning Officer Bruce Weber and Cheryl Massmann, Deputy City Clerk

Item No. 1 –23 Tompkins St. – (Youmans)(R4) – Use Variance – Operating a Tea Room

Mr. & Mrs. Youmans were present. Mr. Youmans explained that they are proposing to live on the second floor of this house and to run a Victorian tea room on the first floor. They will be using two (2) parlors and a dining room as well as the kitchen plus a small space as a gift area. They plan to have three (3) servings a day and that these will be by reservation only, Tuesday through Saturday. Mrs. Youmans explained that it will be a four (4) course high tea, which would include soup, sandwich and dessert.

Comm. Wickman asked how the property was used now and if they lived there now. Mr. Youmans stated that they did not live there now. He explained that they wished to purchase the building once they established their business. Mrs. Youmans stated that the current owner is renting out two (2) rooms at this time. Comm. Wickman asked if they planned to have a sign for the business out front. Mr. Youmans indicated that there would be and it was in the drawing. Comm. Brown asked how many parking spaces were in back of the house. Mr. Youmans stated that there would be four (4) parking spaces provided. Comm. Haskell noted that there was also parking on Tompkins Street.

Comm. Hickey noted that the applicant is not the property owner. Zoning Officer Weber explained that they don't have to be the owner to make the variance application and they do have the owner's knowledge permission and there is some documentation from the owner regarding hardship. Comm. Hickey asked who the variance would be granted to, the owner or the applicants. Zoning Officer Weber indicated that it would be granted to the applicants. Comm. Wickman asked if the parking spaces would be the size granted by the Code. Mrs. Youmans stated that they were.

There was no one further to speak; therefore the public hearing was closed.

On the motion of Comm. Wickman, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE USE VARIANCE – 23 TOMPKINS ST. – (YOUNMANS)(R4) – USE VARIANCE – OPERATING A TEA ROOM BE PLACED ON THE TABLE FOR DELIBERATION.

A SEQR review was done.

On the motion of Comm. Hickey, seconded by Comm. Haskell, voted and approved to find no environmental impacts and to issue a negative declaration.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

Comm. Hickey asked if the Youmans were to become the owners, what would the classification of the property be if this application is approved. Zoning Office Weber noted that the property classification would not change as long as they are living there and operating a business. He noted that if there were a situation where they wanted to sell the business, but continue to live there, that would not be in keeping with their application because the application is indicating that this will be an owner occupied business. Comm. Hickey noted that renting the space out would be out of the question. Zoning Officer Weber indicated that would be contrary to their application.

The criteria for a use variance were reviewed.

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial. It was noted that competent financial evidence is often lacking in these applications, but not in this case.
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). Difficult to rent with the change in rental housing stock with all of the new student housing that has been built and this has contributed to the hardship.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood. It is consistent with the other properties in the area.

4. The alleged hardship has not been self-created. Area is in transition and it's nice to see an owner occupied business.

On the motion of Comm. Hickey, seconded by Comm. Brown, voted and carried to approve the use variance for 23 Tompkins Street as an owner occupied tea room business.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE USE VARIANCE FOR 23 TOMPKINS ST. – (YOUNG)(R4) – USE VARIANCE – OPERATING A TEA ROOM BE APPROVED FOR AN OWNER OCCUPIED TEA ROOM BUSINESS.

Item No. 2 – 7 Pleasant St. – (Cortland Holdings)(R1) – Area Variance – Greater Lot Coverage than Allowed

McClain Schonekas with Walk to Campus Properties was present. He stated that upon the purchase of this property over the summer, they started to make some improvements on the property. One of which was there was an old tree and a messed up sidewalk and they replaced all of that. The driveway had a bunch of old stones in it and they put in new crusher run all down the driveway and added it to a grassy/muddy area where all of the kids parked. He stated that his company participates in the City's rental permit program. When he was out at the property with Code Officer Christian, they ran in to Capt. Knickerbocker who told him that he should have gotten a permit before putting the crusher run down. Capt. Knickerbocker told him to contact Zoning Officer Weber and to fill out the permit retroactively and go through the process. That is what he did and he is seeking retroactive approval for the action which taken. Comm. Haskell asked him if the contractor he had used had told him that he needed a permit. Mr. Schonekas stated that the contractor did not say anything and he didn't think it was that big of a deal as they were just cleaning up the property. He noted that the previous owner had torn down the garage, so there was a bunch of junk back there as well. The thought was to clean the junk up and put down some stone and make a nice parking area.

Comm. Brown noted that the driveway went straight back and the tenants always parked in the driveway. He asked if it was student housing when the property was purchased. Mr. Schonekas stated that it was student housing since the 1970's and his company has a CZO for it and it's a two (2) family property. He noted that it was only being rented to five (5) students, but technically six (6) could live there.

Comm. Wickman noted that the diagram of the property shows parking space for five (5) cars and he asked how many cars were typically parked there. Mr.

Schonekas stated that it varies depending upon how many students are living in the house and how many have cars. He noted that this year only four (4) of the five (5) students have cars. Comm. Wickman noted that it looked like a somewhat difficult area to get out of. Mr. Schonekas noted that they told their students when they rented to them that parking has to be coordinated with the other tenants as far as moving around. He noted that there isn't a lot of space there for parking.

Comm. Brown asked Zoning Officer Weber how many parking spaces were required for a two (2) family. Mr. Weber stated that four (4) spaces were required to meet today's standards however it is grandfathered in as an existing two (2) family. Comm. Hickey noted that there were only two (2) parking spaces, technically and the rest were in the driveway. Comm. Brown noted that the driveway was as wide as a parking space. Comm. Hickey noted that by definition of a parking space, it has to be a space that you can get in to without having to move another vehicle. She noted that this is all grandfathered, but... Zoning Officer Weber noted that for a single family home, parking was allowed to be stacked, but not a two (2) family, but noted again, that this was grandfathered. Mr. Schonekas stated that there was an upstairs unit and a downstairs unit.

Zoning Officer Weber explained that the additional stone was put in the upper left hand portion of the property which then creates a situation where they have greater lot coverage than what is allowed and that is the issue here. The parking was shown at the request of the Planning Commission.

There was some discussion between Comm. Brown and Zoning Officer Weber regarding lot coverage and what triggers a need for an area variance. Comm. Brown expressed concern about the consistency of their decisions. Comm. Hickey asked if the stone was put in the back of the house so that the kids can gain access to a back entrance. Mr. Schonekas thought his contractor may have bought too much stone and made it look consistent and maybe have a little bit more room for error with the cars moving around. Comm. Wickman noted that the space can't be used for much else. Mr. Schonekas noted that they did not create another parking spot. They were trying to improve the property.

There was no one further to speak; therefore the public hearing was closed.

On the motion of Comm. Haskell, seconded by Comm. Wickman, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE – 7 PLEASANT ST. – (CORTLAND HOLDINGS)(R1) – AREA VARIANCE – GREATER LOT COVERAGE THAN ALLOWED BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for an area variance were reviewed.

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. Not visible from the street, but concerned with property owners increasing parking areas and coming in after the fact and that this type of thing becomes a habit. This could become a problem for nearby properties with regards to drainage.
- 2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. Possible to cut space covered in half.
- 3. Whether the requested area variance is substantial. Yes
- 4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. Nothing demonstrated.
- 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Definitely is self-created.

On the motion of Comm. Hickey, seconded by Comm. Wickman, voted and carried to approve the area variance for 7 Pleasant Street to approve the application for an area variance to increase the lot coverage for parking.

Chair Dailey	Aye	Comm. Brown	Nay
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE – 7 PLEASANT ST. – (CORTLAND HOLDINGS)(R1) – AREA VARIANCE – GREATER LOT COVERAGE THAN ALLOWED BE APPROVED.

Minutes – October 18, 2010

On the motion of Comm. Wickman, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

Comm. Wickman Aye

RESOLVED THAT THE MINUTES OF OCTOBER 18, 2010 BE APPROVED.

Minutes – August 9, 2010

On the motion of Comm. Hickey, seconded by Comm. Haskell, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE MINUTES OF AUGUST 9, 2010 BE APPROVED.

Adjournment

On the motion of Comm. Hickey, seconded by Comm. Haskell, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

I, BRIAN DAILEY, CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NEW YORK, 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 8TH DAY OF NOVEMBER 2010.

BRIAN DAILEY, CHAIRPERSON