

Zoning Board of Appeals
City of Cortland
Monday, November 30, 2015

A special meeting of the Zoning Board of Appeals was held on Monday, November 30, 2015 at 5:00 PM in the Mayor’s Conference Room at City Hall.

Present: Chair Mary Kay Hickey, Commissioners David Dovi, Christine Place (arrived late), Scott Steve, Juliene Ray and Phyllis McGinley

Absent: Comm. David Funk

Staff: Zoning Officer Bob Rhea; Secretary Devon Rainbow, Deputy Chief William Knickerbocker

The meeting was called to order at 5:00 pm.

Item #1 – 16 Wadsworth (Haynes) – Area Variance – (R1)

- *Adding a 5x8 Front Deck with Stairs*

No one was present to speak. This application was addressed at the regularly scheduled November meeting (11/9/15) before it was determined that the meeting had not been properly advertised. That meeting was terminated after hearing the applicant describe what he planned to do.

A motion was made by Comm. Ray to close the public hearing and was seconded by Comm. Steve

Approved: Ayes – 5
Nays – 0

A motion was made by Comm. Steve to approve the request and was seconded by Comm. McGinley.

Approved: Ayes – 5
Nays – 0

Item #2 – 11 Groton Ave (Joseph) – Area Variance – (CB)

- Adding a second sign measuring 5’x10’
- Exceeding height limit

No one was present to speak.

A motion was made by Comm. McGinley to close the public hearing and was seconded by Comm. Place

Approved: Ayes – 6
 Nays – 0

Bob Rhea stated that the height limit is 24 feet. The sign exceeds that.
A motion was made to by Comm. Steve to approve and seconded by Comm. Place

Approved: Ayes – 6
 Nays – 0

Item #3 – 10 Pleasant Street (S&Q Real Estate) – Use Variance – (R1)

- Continue Occupancy by 6 Unrelated Individuals
- Interpretation of loss of legal, nonconforming use

Dan Ellis spoke on behalf of the owners. He is their attorney. The building has been used as student housing in the past. Fall of 2013 there was no lease. In January 2014 a lease fell through, then again in the fall of 2014 that lease fell through. At this point they went in and did some remodeling within the building. This was finished in early 2015. In the spring of 2015 they received notice from the zoning enforcement officer that they lost their grandfather status. At that point the building was vacant. They are wondering if due to the fact that the building had activity within that period of time, if they still lose their grandfather status? Code section 300-125/126 is what he wants interpreted. He cited case law involving a ruling that “activity in furtherance of a use constitutes a use.” The applicant argues that the building was not vacant for a period of more than a year because the remodeling furthers the use as a residential unit.

Bob Rhea explained that the property lost its grandfather status due to its vacancy. The code address involuntary and voluntary abandonment. Neither law allows reinstatement of grandfather status after two years of abandonment making a use variance the only way to increase occupancy. The condition of the property is under control of the owner. After the vacancy it makes the property conforming.

Beau Harbin spoke on behalf of the property. He lives in the neighborhood and has concerns with the looseness with the dates. He is against the property keeping the grandfather status due to it being in a R1 district. He would like to see less nonconforming properties within that area.

Bill Knickerbocker stated he has dates where the City had to remove snow and mow the lawn for the property.

A motion was made by Comm. Place to close the public hearing and table the item until the December 14th meeting due to the board requesting more information. Dan Ellis is asked to come back with any leases that can prove occupancy, documentation of when the construction started, and water or utility bills proving occupancy. This was seconded by Comm. Ray

Approved: Ayes – 6
 Nays – 0

Item #4 – Riverview Apartments (Taw) – Area Variance (R4)

- Area variance for front yard setback for cooling tower and shed
- Area variance for Parking configuration for 40 spaces

Jeff Taw (architect) stated that they no longer need the area variance for the shed. They have moved it back far enough so that it is within the buffer. The cooling tower is going to be placed in the rear of the building 16 feet from street edge. They were recently approved for 42 parking spaces but due to recent findings, there is only room for 40 parking space. It should not be an issue for tenants, visitors or staffing for parking. Nearly all units are one bedroom (37 of 39). Most of the people living here do not have vehicles or drive. Due to the grant that they are receiving from the state, they have to keep this service going for 50 years.

A motion was made by Comm. Place to close the public hearing and seconded by Comm. McGinley

Approved by: Ayes – 6
 Nays – 0

A motion was made by Comm. Place to approve the revised location for the cooling tower and seconded by Comm. McGinley

Approved by: Ayes – 6
 Nays – 0

A motion was made by Comm. Place to approve the parking of 40 spaces given the fact the New York State requires the building to be used for this purpose for 50 years, which is an extenuating circumstance that would allow us to find this an acceptable variation of the required parking. Seconded by Comm. McGinley.

Approved by: Ayes – 6
 Nays – 0

Minutes

Approval of April minutes motioned by Comm. Steve and seconded by Comm. Place
 Ayes – 6
 Nays – 0

Approval of May minutes motioned by Comm. Place and seconded by Comm. Ray
 Ayes – 6
 Nays – 0

Approval of June minutes motioned by Comm. McGinley and seconded by Comm. Dovi

Ayes – 6

Nays – 0

Approval of September minutes motioned by Comm. Place and seconded by Comm. Steve

Ayes – 6

Nays – 0

Approval of October minutes motioned by Comm. Steve and seconded by Comm. Dovi

Ayes – 6

Nays – 0

New/Old Business

Adjournment

A motion was made by Comm. McGinley and seconded by Comm. Place, voted and carried to adjourn meeting.

Approved: Ayes – 6
 Nays – 0

I, MARY KAY HICKEY, 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 30th DAY OF NOVEMBER IN THE YEAR 2015.

MARY KAY HICKEY, ZBA MEMBER