

Zoning Board of Appeals  
City of Cortland  
**Monday, September 12, 2016**

A regular meeting of the Zoning Board of Appeals was held on Monday, September 12, 2016 at 5:00 PM in the City Court Room at City Hall.

Present: Chair Scott Steve, Commissioners Juliene Ray, Dave Dovi, and Karen Leahy, Beau Harbin, Phyllis McGinley, Maria Manning

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

The meeting was called to order at 5:10 PM

**Item #1 – 24 Summit St. (Babcock) – Area Variance – (R1)**

- Area Variance for front yard setback on Summit St. and Liberty Ave.

This item was tabled from last month’s meeting. Mr. Babcock was present to discuss the application. He explained that he is not a developer or a landlord. He lives down the street from the property. The property had an old barn that was not safe and had rodents living in it. It had back taxes owed, no sidewalks or trees on the property. He plans on putting a single family home, sidewalks and trees on the property. There is a setback of 33ft from the curb with adding the 12ft buffer around the property. There are no plans of other tenants or students living in the house. The house is for his father to live in. He does not plan on parking his work truck on the property. The front of the property is considered Liberty Ave.

Mr. Troy of 29 Summit was present and stated that Mr. Babcock has done a nice job with the barn and keeping up the property. His concern is with the closeness to the property at 26 Summit St. It is within the Zoning regulations.

Mrs. King has concerns with Mr. Babcock due to past interactions with him.

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

Approved: Ayes – 6  
Nays – 0

The board members reviewed the test questions to determine whether the variance should be considered for granting or denial.

A motion was made by Comm. Dovi to approve the 21ft setback from Summit St. with the survey and seconded by Comm. Leahy.

Comm. Harbin asked to amend the motion to include the 17ft setback from Liberty St and was second by Comm. McGinley.

Approved:   Ayes – 6  
                  Nays – 0

**Item #2 – 77 West Main St. (Johnson) – Area Variance – (R1)**

- Area Variance for fence in front yard facing West Main St.

A motion was made to table this item till the end of the meeting by Comm. Harbin and seconded by Comm. Leahy.

Approved:   Ayes – 6  
                  Nays – 0

**Item #3 – 31 Van Hoesen St. (McLorn) – Area Variance – (R1)**

- Area Variance for fence in the front yard

Mr. McLorn was present for the meeting. He would like to put up a 6ft privacy fence around his back yard that is considered the front yard. There are no obstructions from the driveway. The plan is to go around the current trees. The owners plan on installing the fence themselves.

Bob Rhea stated that the fence cannot be any closer than 3ft from the wall so that a lawnmower can get through. It was mentioned to the owners that the holes need to be 3ft deep for the poles.

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

Approved:   Ayes – 6  
                  Nays – 0

The board members reviewed the test questions to determine whether the variance should be considered for granting or denial.

A motion was made to approve the application of the 6ft fence with the 3ft setback on Joy St. by Comm. Harbin and seconded by Comm. Ray.

Approved: Ayes – 6  
Nays – 0

**Item #4 – 16 Riverview Ave. (Morris) – Use Variance – (R4)**

➤ Non Residential Use

Mrs. Morris was present for the meeting. She purchased the property in 2005 and shortly after that moved to Syracuse. In August the property was broken into and was burned down. She would like to sell the property. She has had a couple people interested but they have backed out. There is a buyer now pending the variance to use the garage for storage of cars. Any other use intended for the property would need to go the Planning Commission. The owner has not listed the property with any Realtors.

Mr. O’Gorman was present. He is the person interested in purchasing the property. He has 3 classic cars that he would like to store in the garage. He does not do any repairs on the cars himself. He plans on updating the garage and cleaning up the lot. Down the road he may plan on putting a house on the property. His intent is not for commercial use. While he is driving one of the vehicles, his current vehicle will sit in the driveway. All the cars are licensed.

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

Approved: Ayes – 6  
Nays – 0

The board members reviewed the test questions to determine whether the variance should be considered for granting or denial.

A motion was made to approve the application with the 3 car garage, the property may only be used for private use not commercial or business use, all vehicles stored on the property should be licensed and registered. Made by Comm. Leahy and seconded by Comm. Ray.

Approved: Ayes – 6  
Nays – 0

**Item #5 – 2 James St. (Ruggiero) – Interpretation - (R1)**

➤ Rental Permits

Commissioner Steve reminded everyone to address the board and not each other and to be respectful to each other.

Deputy Chief Knickerbocker shared chapter 102-5 of the code on Rental Permits. The original Rental Permit Law was written in 2009. It's hard to tell what the intent of the law is according to the Authors.

For informational purposes DC Knickerbocker informed the Board that the Code Office is required to issue building permits for work associated with residential properties and is not restricted by the number of sleeping rooms during plan review as that is not generally regulated by building code standard, however the maximum unrelated individuals is by local law.

No other information was given to the ZEO from Mr. Ruggiero regarding any CZO. The permit was never officially denied it was not accepted by Mr. Ruggiero. The original permit was filled out with maximum occupancy of 14 people. The Code Office came back with maximum of 3 people. They use the law to write the application.

Mr. Ruggiero made reference to chapter 102-11c regarding how a Rental Permit shall be issued. There are 3 steps, 1-application, 2-compliance, 3-meeting the requirements. Before a permit is denied a notice of violation must be issued. Mr. Ruggiero stated that he was denied his permit without a notice of violation. He believes he was denied because he put 14 for the maximum number of residents in the house. This is the maximum number of people he could put in the house is 14 due to the square footage. He does not intend to put that many in there. Chapter 300-2 states what is considered a family. The judge decides what is considered a family in court. It has been ruled that 5 unrelated can be considered a functioning family. Mr. Ruggiero would like the laws enforced equally with all landlords. When a problem is brought to his attention regarding his students, he addresses it. The property has been inspected for safety and stated there are 9 bedrooms. Mr. Ruggiero explained what is considered a family according to the City code. The permit is good for 3 years and depending on the year, he may want a large family in the home. Mr. Ruggiero stated that there is no such thing as a nonconforming use for occupancy restrictions in the City of Cortland. The rental permit is not to enforce the Zoning laws.

Commissioners expressed that the application and law should be more specific. It seems that there is confusion with the application. Commissioners asked Mr. Ruggiero what he considered a functional family. Rental permits are amendable. A person has 2 weeks to notify the Code Office of a change on the property. There is a question for residency and stability of students. It was asked why Mr. Ruggiero is seeking a Rental Permit.

A motion to close the public hearing was made by Comm. Harbin and seconded by Comm. Manning.

Approved: Ayes – 6  
Nays – 0

A motion was made that the denial of the rental permit for 2 James St. was procedurally incorrect and to deny by Comm. Ray and seconded by Comm. McGinley.

Approved: Ayes – 5  
Nays – 1 (Comm. Harbin)

**Item #6 – All Rental Property owned by Mr. Ruggiero – Interpretation**

➤ Rental Permits

Mr. Ruggiero is asking for a variance of the 3 unrelated for all his rental properties. He stated that people are given usage without variances.

The board stated that the application needs to be more specific to one property at a time. A specific example needs to be presented with a comparable property that has been granted a variance that Mr. Ruggiero was denied.

A couple landlords spoke in favor/support of Mr. Ruggiero.

A motion to close the public hearing was made by Comm. Harbin and seconded by Comm. Dovi

Approved: Ayes – 6  
Nays – 0

A motion was made to deny the application due to the application not specific enough by Comm. McGinley and seconded by Comm. Leahy.

Approved: Ayes – 6  
Nays – 0

**Item #2 – 77 West Main St. (Johnson) – Area Variance – (R1)**

➤ Area Variance for fence in front yard facing West Main St.

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

Approved: Ayes – 6  
Nays – 0

The board members reviewed the test questions to determine whether the variance should be considered for granting or denial.

A motion was made to approve the application with condition of cutting the area of the fence facing West Main to 4ft or moving the fence to the agreed previous variance by Comm. Harbin and seconded by Comm. Ray.

Approved: Ayes – 6  
Nays – 0

**Minutes**

Approval of August 8, 2016 minutes as presented, motion by Comm. Ray and seconded by Comm. Leahy

Approved: Ayes – 6  
Nays – 0

**New/Old Business**

A motion was made by Comm. Ray to nominate Scott Steve as Chair and Beau Harbin as Vice Chair and seconded by Comm. Dovi.

Approved Ayes – 6  
Nays – 0

**Adjournment**

On the motion of Comm. Harbin and Seconded by Comm. McGinley, voted and carried to adjourn meeting.

Approved: Ayes – 6  
Nays – 0

**I, SCOTT STEVE, 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 12<sup>th</sup> DAY OF SEPTEMBER IN THE YEAR 2016.**

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**SCOTT STEVE, ZBA MEMBER**