

A **REGULAR MEETING** of the **ZONING BOARD OF APPEALS** of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on **AUGUST 6, 2019** at **5:00 p.m.**

IN ATTENDANCE:

- **Members Present: (4):** Susan Snell (Chair) / Marcie Schwartzman / Frank Leo / Dave Wood / Joe Perdue
- **Members Absent: (1):** Denise Hollis (alternate)
- **Others Present:** Zoning Enforcement Officer, Jane Gentile (ZEO) / Mikal Sky-Shrewsberry (Clerk PT) / **(4)** Member(s) of the Public

MEETING OPENED: by **SUSAN SNELL** at **5:02 PM**

PUBLIC HEARING(S): (0) ITEMS

REGULAR AGENDA: (5) ITEMS

1. 52 Chestnut Street (Terry Novorr)

- (a) Preliminary meeting for a Short Term Rental special use permit per Section 300-17.1 for the rental of three (3) bedrooms within the five (5) bedroom house
- **REPRESENTATIVE PRESENT**
 - **TERRY NOVORR**
 - **DISCUSSION**
 - o **Description**
 - **Family resides in the back of the house / use (2) of the (5) bedrooms**
 - o Family will reside in the back half of existing dwelling and rent the front rooms
 - **Has already acquired a certificate of authority as a bed-and-breakfast**
 - o Intends to rent all 3 bedrooms / 2 baths as a combined unit - preferably to a family
 - Does NOT plan to rent each bedroom to a separate short term tenant
 - Susan Snell
 - o ZBA is NOT concerned with whether bedrooms will be rented to a single family or individual tenants
 - Terry Novorr
 - o Important to her intent to rent as all bedrooms to one family is on record to reassure her neighbors
 - **Parking**
 - o Property has more than enough parking to provide the 5 required spaces (6 spaces once apartment over garage is completed)
 - Terry Novorr
 - o Over 12 cars were easily parked on the property during Hall of Fame Weekend 2019
 - Jane Gentile (ZEO) confirmed parking requirements were met
 - o Parking plan on file was hand drawn by ZEO (not to scale)
 - o Parking is gravel based with paved driveway
 - Susan Snell
 - o ZBA does NOT want to approve grassy area for parking that will turn to mud
 - **Renewal of Permit**
 - o Jane Gentile (ZEO) has informed the owner of renewal process and other relevant rules
 - **Long Term Plans**
 - o Plan to construct a separate on-site residence for the owner's son is on hold for financial reasons
 - o Susan Snell clarified that the owner is required to live in the house when it is used as a Short-Term rental
 - **Other Unrelated Business: Tree Removal**

- o Terry Novorr inquired whether Village permission was needed to cut down a very large pine tree in her back yard
 - Considering offering it as a Times Square or National Christmas Tree
 - Have 6 trees in their yard
 - Susan Snell
 - o Removal of (1) tree out of (6) falls within the percentage allowed by the Village law so no permit would be required
- **No Motion Was Made / No Vote Was Taken**
- **NEXT STEPS**
 - o **Public Hearing**
 - To Be Set for Next ZBA meeting (currently scheduled for September 3, 2019 @ 5pm)

2. 94 Chestnut Street (Frank Leo / Jon McManus)

- (a) Preliminary meeting for an area variance from Section 300-13C(3)(b) requirement of the ten (10) foot side yard for the addition of a 16-foot by 21-foot-6-inch two-story addition which will be four (4) feet from property line in replacement of the existing mudroom
- **REPRESENTATIVE PRESENT**
 - o Frank Leo / Jon McManus
 - **DISCUSSION**
 - o **Recusal**
 - Frank Leo recused himself from all discussion because the property is his
 - Susan Snell determined she did NOT have a conflict of interest and DID NOT RECUSE HERSELF
 - o **Materials Submitted**
 - Drawing of footprint
 - Photos of property
 - Elevations with roof height noted will be submitted before the September meeting
 - o **Description**
 - **Existing flat roof addition will be replaced by 2 story addition**
 - o Intend to construct each of the (2) stories of the addition in separate phases
 - o Requesting simultaneous approval of both phases/stories under the same permit
 - **Roof(s)**
 - o Current intention is to install a FLAT roof for each phase of construction (although the submitted plans show a hip roof)
 - Plan to construct a flat roof for the first story which will eventually create the floor system for the 2nd story
 - o Total height of the new 2 story addition will never exceed height of existing structure even if a hip roof is constructed instead of a flat roof
 - **Variance**
 - o Only variance required is for the setback
 - **Neighbor**
 - o Board reviewed photos showing proximity to neighbor's fence
 - o Neighbor will see the 2nd story
 - o Susan Snell recommended that the neighbor submit a letter confirming he does NOT object to the proposed addition
 - Frank Leo believes his neighbor will be willing to submit the requested letter
 - **Roof Runoff**
 - o Frank Leo discussed possible ways of handling water running off the roof so it will NOT affect his neighbor
 - o Jon McManus concurred that there was plenty of room to address runoff on the other side of the house

- **MOTION**
 - **No Motion Was Made / No Vote Was Taken**
- **NEXT STEPS**
 - o **Public Hearing**
 - To Be Set for Next ZBA meeting (currently scheduled for September 3, 2019 @ 5pm)

3. 21 GLEN AVENUE (BETH EMERICK / JON MCMANUS)

(a) Discussion of zoning options

- **REPRESENTATIVE PRESENT**
 - o Jon McManus
- **PURPOSE OF DISCUSSION**
 - o Jon McManus is seeking information to put together a strong argument
 - Argument will be presented at the September ZBA meeting (not at tonight's meeting)
- **CURRENT/ PAST USE**
 - o Dwelling has 3 living units
 - (1) Unit = Owner's residence
 - o Meets owner operator/residence requirements
 - (2) Units= Rental units
 - o Both approved for short term rentals
- **GOALS FOR THE PROPERTY/OWNERS**
 - o Rent all (3) housing units in the existing dwelling short term
 - o Construct (1) long term rental apartment above the detached garage
 - Already approved
 - o Agent operated
 - Intention is to have a non-owner reside in the detached apartment and oversee the rentals
 - o (Instead of requiring the owners to occupy one of the units in the existing dwelling)
 - o Maximize the financial value of their property
 - Owners' hope is to keep the property for a number of years and maximize income by bringing in short term rental income from all (3) units in the dwelling instead of just (2) units as currently used
 - o Especially important now that resale value is likely to be greatly reduced by new laws
 - When purchased:
 - o Had the potential for **multiple** short-term rentals
 - Under the Current Transient Rental Law
 - o **None** of the units can be rented short-term if the property changes ownership
- **REASONS/POTENTIAL ARGUMENTS FOR REQUESTED CHANGES**
 - o **History of Use**
 - Dwelling has been used for combo of short/long term rentals for at least the past (2) owners
 - Current owner has resided on the property and rented out the (2) downstairs units for the last 16 years
 - o **Financial Hardship**
 - Undue Financial Burden due to change in income producing ability
 - o Property was purchased as an investment property (NOT a single family residence)
 - o Potential income will be significantly reduced
 - Reduction will be approximately \$20,000/yr per unit due to the difference in short term vs long term rent)
 - o Reduced resale value
 - Potential to only rent apartments long-term makes the property much less appealing to potential buyers when time to sell
 - Current situation is very different from what was possible when the current owners invested in the property

- o **Unusual Circumstances**
 - Not many other properties in the Village affected by the transient rental code changes in the same ways / to the same extent
 - o Susan Snell stated
 - This is NOT a unique situation
 - There are at least a handful of properties in the Village that have been affected in similar ways by the changes to the Village laws
 - The recent revisions to the Zoning Law re: Short-term rentals of apartments have two major intentions
 - Enable current owners to maintain existing Short-term rental permits for as long as they remain the owner
 - Ultimately revert many short-term apartment rentals back to long-term rentals by expiring existing permits if the property is sold
 - o Law requires the new property owners to conform to the current law
- **RELIEF: SOUGHT/ UNDER CONSIDERATION**
 - o **Zoning Change To Commercial (From Residential) -Trustees / Planning Board**
 - Believed it was a reasonable request because property is located on a street surrounded by other commercial and multi-unit residences
 - Request for re-zoning was Denied by the Board of Trustees based on recommendation of the Planning Board
 - o **Area Variance/ Permit Conditions - ZBA**
 - Jon McManus
 - o Believes ZBA can approve it
 - as a condition or special use permit
 - as an area variance
 - o Thinks history of use is a strong argument in favor of granting the owners' request
 - Spoke with Village Attorney (Martin Tillapaugh)
 - o Believes the Village Attorney thought the argument had some validity
 - o **Hotel Status - Trustees**
 - Susan Snell
 - o Suggested considering applying to the Trustees for hotel status
 - o Believes it is the owners' best chance to achieve their goals
- **BOARD RESPONSES**
 - o Input from Village Attorney (Martin Tillapaugh) is necessary
 - His approval will carry a lot of weight
 - Several Board Members stated they need the Village Attorney's approval before they would be willing to consider the proposed changes
 - o **Proposed Variances or Special Use permit conditions are Completely at Odds with the New Village Laws that are Intended to Curb Short Term Rentals**
 - Requesting expansion in number of short term rental units
 - Not having short term rental rights of property die out
 - o **Reduced Income From Property Is NOT A Valid Argument**
 - Not recognized as a business
 - Many property owners in the Village would like to maximize income in a similar way
- **NEXT STEPS**
 - o Jon McManus and owners will present their case in full at the September ZBA meeting
- **MOTION**
 - o No Motion Was Made / No Vote Was Taken

4. 116 Pioneer Street (Frank Capozza)

- (a) Discussion of recreational vehicle parking per Section 300-38

- **REPRESENTATIVE PRESENT**
 - o No representative was present
- **PURPOSE OF THE DISCUSSION**
 - o Jane Gentile (ZEO) explained the situation
 - ZEO received complaint regarding RV that is parked on neighbor's property and is in violation of Village code
 - Although complaint is about (1) specific RV, there are many other instances of non-compliance regarding parking of RVs, Boats on Trailers and other large vehicles in the Village
 - ZEO is looking for
 - o general guidelines to be applied to all similar situations
 - o how to handle the specific complaint
- **SUMMARY OF THE PROBLEM**
 - o RV is in violation of 2 laws
 - Setback
 - Time parked
 - o Neighbor contacted ZEO with complaint
 - o Owners have a history of parking their RV on their property to load and unload their vehicle for trips
 - When not loading or unloading RV is NOT parked on the property
 - This is the first complaint
- **BACKGROUND**
 - o Owners park the RV on their property multiple time each year to load and unload from trips
 - o Typically take a month to pack for annual trip that will last several months
 - Extended pack time in winter is due to combo of amount of preparation required and winter weather
 - Unpacking typically takes much less time
 - o Short trips and unpacking usually require much less than a month (often just a few days)
 - o Property is too small to allow parking of RV that meets Village setback and screening requirements
 - o Complaint was the result of unusual circumstance
 - RV unexpectedly came back from repairs just as owners were leaving for extended trip to Europe
 - Owners were unable to remove it due to timing constraints
 - Neighbor became upset and initiated a complaint when she learned the owners would be away
 - Owners had RV removed as soon as they were informed of the complaint
 - o Daughter relocated the RV while owners while still in Europe
- **REASONS LARGE RV AND OTHER VEHICLES USUALLY CAN'T CONFORM TO CODE**
 - o Village regulations completely prohibit parking any vehicle over 20-feet long on the street
 - o Many properties have no realistic way to screen such a large vehicle
 - o Many properties have no room to locate a large vehicle outside of the setback due to property configuration and size
- **LIMITS ZBA DEEMED ACCEPTABLE FOR PARKING OVERSIZED VEHICLES IN THE VILLAGE**
 - o Allowing parking of RVs, boats and other large vehicles should be allowed with the following conditions (especially if vehicle is parked behind the front setback)
 - Use is incidental and short term
 - o Short term = **(1) WEEK MAXIMUM IN A MONTH**
 - o Incidental: **NOT ON A REGULAR/FREQUENT BASIS**
 - Board agreed that repeatedly parking on a MONTHLY basis (even for a day) was NOT incidental use
- **HOW THE COMPLAINT WILL BE HANDLED**
 - o Jane Gentile (ZEO) will handle as enforcement issue
 - Her decision will be guided by various factors including: ZBA's discussion at tonight's meeting, other research, input from the Village attorney, etc.
 - ZEO will summarize tonight's discussion and inform both parties of the limits outlined above that will be enforced

- If either party is dissatisfied they have the option of appealing the decision by asking for an "interpretation" from the ZBA
 - o ZBA will follow the official process and confirm or modify the ZEO's interpretation and application of the law
- **MOTION**
 - o No Motion Was Made / No Vote Was Taken

5. MINUTES REVIEW: Zoning Board of Appeals REGULAR MEETING: JULY 2, 2019

- **(1) Error(s) / Correction(s) Requested**
 - o **MISSPELLING: CHANGE USEABLE TO USABLE**
- **MOTION:**
 - o **Made by:** Marcie Schwartzman / **Seconded by:** Joe Perdue
 - o **Motion To:**
 - **APPROVE** the minutes of the **REGULAR ZBA MEETING** held on **JULY 2, 2019 - AS CORRECTED**
 - o **VOTE:**
 - **AYES (3):** Snell / Schwartzman / Leo
 - **ABSTENTIONS (2):** Perdue / Wood (not present at the meeting being voted on)
 - **NAYS (0):**
- **MOTION APPROVED**

NEXT MEETING

- o Scheduled for **TUESDAY, SEPTEMBER 3, 2019**

MOTION TO ADJOURN

- **MOTION MADE BY:** Frank Leo / **SECONDED BY:** Dave Wood
- **VOTE**
 - o **AYES (4):** Snell / Schwartzman / Leo / Perdue / Wood
 - o **NAYS (0):**
 - o **ABSTAINED (0):**
- **MOTION APPROVED**

MEETING CLOSED 6:15 PM (1 HR 15 MIN)

RESPECTFULLY SUBMITTED

Mikal Sky-Shrewsberry (Clerk, PT)

Addendum: Guidelines for Public Comment To Be Read Out Loud at Beginning of Public Hearings

Intro

- Although the Board is interested in hearing all perspectives and believes every idea and concern has weight, Board decisions can only be based on those that fall within the scope of what is allowed/disallowed by law
- In addition to giving everyone a voice, the Board is listening for relevant points they may not have already thought of

Guidelines

1. The chair will recognize each speaker
2. Each speaker is asked to stand and give your name and your organization if you are representing one
3. Each will have (1) opportunity to comment and I ask you to limit your comments to (5) minutes
 - In order to use the time efficiently we ask that no one repeat points that have already been made.
4. Please address your comments to the entire Board
5. Board members may only speak for the purposes of information and clarity during the public hearing
6. At the Chair's discretion a speaker may be granted a second opportunity to add new comments
7. Speakers and Board members shall observe commonly accepted rules of courtesy, decorum and respect
8. After the close of the public hearing, the Board will discuss the application and make a decision either tonight or within (62) days