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 **SEPTEMBER 3, 2019** at **5:00 p.m**.

IN ATTENDANCE:

- **Members Present: (4)**: Susan Snell (Chair) / Marcie Schwartzman / Frank Leo / Denise Hollis (alternate)
- **Members Absent: (2):** Dave Wood / Joe Perdue
- **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 **5:00 PM**

PUBLIC HEARING(S): (2) ITEMS

1. 52 Chestnut Street (Terry Novorr)

(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

- **PUBLIC HEARING OPENED BY: SUSAN SNELL - AT 5:01 PM**
- **DESCRIPTION**
  - Requirements
    - Applying for short term rental of (3) Bedrooms
      - Owner must live on the premises and be available throughout the day whenever guests are renting rooms
      - Adequate parking must be available
        - 6 parking spaces required
          - Includes proposed apartment over garage
      - Rented rooms must be in the main dwelling
  - Garage Apartment is *NOT* part of the application
    - Garage apartment does not exist
      - Terry Novorr (owner) confirmed project is on hold for financial reasons
        - Hope was to convert into a long term rental for her son to live in
        - Will not be completed for a long time, if ever
- **PUBLIC COMMENTS**
  - **Timothy Korytko and Kristen Oehlrich (53 Chestnut Street)**
    - Reviewed the file
    - Residents for 5 years / Live next to the Kuhns
    - Believe the increasing number of short term rentals on Chestnut is altering the character of the neighborhood
      - Surrounding portion of Chestnut is becoming the "Rental Strip"
      - Changing from residential to short term accommodation
        - If this rental is approved their block of Chestnut will be over 25% rentals
      - Increasing noise and traffic
        - They have experienced problems with noise and a parked car which blocked their driveway
    - Concerns
      - Unclear who is responsible for holding owners accountable
        - Hard to know who to complain to
      - Neighborhood is being allowed to transform into something very different from what they expected when they purchased their home

- Knowing you are moving in next to a hotel from the beginning is very different from ending up living next to a home that has unexpectedly changed from purely residential to hosting short term rentals
- Believe intensity of use is counter to zoning laws
  - 5 out of 9 homes will be short term in a residential district
  - Cited 300-16.c.1 "In harmony with the surroundings..."
  - Urge the Zoning Board to deny the application
- Expressed frustration with the process of public hearings
  - "What's the point of a hearing if the neighbor's concerns have no chance of impacting the decisions?"

o Terry Novorr (owner)

- Assured neighbors she will be present and make sure renters are respectful of the neighborhood and neighbors
  - Establishing rules to follow that she will hold them to
    - Includes "Quiet after 10pm"
  - Lives there herself and wants any problems taken care of
- Offered her contact information so neighbors can address any problems directly with her
- Stated she will be renting all (3) rooms as a unit to a family
  - Will most likely just have (1) car
- Her house has historically been used for short term rentals

o Suggestion To Reduce Resident Concerns About Short Term Rentals

- Georgia Meeter (50 Chestnut Street)
  - **Suggested Village send a courtesy letter to owners of short term rentals each spring**
    - Reminder of procedures / responsibilities to neighbors / potential consequences (if they do not fulfill their requirements or receive complaints)
  - She is also the owner of a home that is permitted to be used for a short term rental
    - She has been granted a permit for a (1) bedroom short term rental but has not yet begun to rent
  - Believes it might reassure neighbors that the Village is actively monitoring short term rentals
    - Kristen Oehlrich (53 Chestnut)
      - Agreed this could be helpful in alleviating concerns

- **ZBA PROVIDED BACKGROUND INFO TO ADDRESS CONCERNS**

o Complaints

- **Compliant Procedure**
  - Complaints must be submitted IN WRITING to the Village through Jane Gentile (ZEO)
    - Board has NO legal authority to act without a WRITTEN complaint
    - Jane Gentile's contact info is available online
  - If there are complaints owners can be brought back in front of the ZBA and the permit can be revoked or renewal can be denied
    - Permits last 3 years and are renewed annually
  - Immediate response to noise complaints after 10pm will need to be addressed by the police

o Laws governing short term rentals in the Village

- **Village considers various types of structures and uses to be compatible with a residential zone**
  - What is considered depends on the type of zone
- **Section of Chestnut being discussed is zoned R3 which allows the most intense use**
  - Single-family / Two-family / Multi-family dwellings are allowed by right
  - Churches / Hotels / Home Occupations / Short Term Rentals are allowed by special permit
- **Density thresholds**
  - Our law does NOT establish a density threshold for short term rentals in a neighborhood
- **Parking requirements are often the most stringent requirements to meet**
  - They are the most limiting factor in how a property can be used

- **Changes to the Code**
  - **Village has recently revised the zoning law which will restrict/reduce the number of future short term rentals without prohibiting them altogether**
    - Goal of the revisions to the zoning law was to preserve the residential nature of the Village while also allowing residents to rent out rooms in their homes to increase their income stream (assuming they could meet parking and other requirements)
      - Short Term Rentals are limited to bedrooms located in the single family houses or in an single family house with an attached accessory apartment
        - (2)-family and multi-family dwellings can NOT be used for short term rentals
  - **New laws will ultimately result in a reduction in the number of short term rentals**
    - Existing short term rental permits will expire whenever a property is transferred to a new owner
    - New owners will need to apply for permits under whatever the current law is at the time of their application
  - **Short term rentals in the Village**
    - (40) properties in the Village currently rent short term
    - (10) of those properties are grandfathered
      - Only those 10 properties do NOT require owners to meet the residency requirement
      - One of these properties is at 47 Chestnut
    - ZEO monitors AirBnB and other online sites to make sure all short term rentals are in compliance with the laws and have gotten the needed permits
  - **Short term rentals on Chestnut will ultimately decrease**
    - Short term rentals neighboring Timothy Korytko's house will eventually also decrease when the apartment house at 47 Chestnut Street that does short term rentals is sold
      - New owners will only be able to rent long term
- **Existing Short-Term Rental Properties In the neighborhood**
  - There are only 2 currently operating Short-term rentals near the applicant
    - Cooperstown B&B (across the street) and 47 Chestnut.
  - An additional neighboring property has been granted a short-term rental permit
    - 50 Chestnut received a Short-Term Rental Special Permit for a single room but has not begun renting it yet
  - There are also two hotels within a block
    - The Landmark Inn and the Whitehouse Inn and 50 Chestnut
- **No Complaints Regarding Short-term Rentals in This Neighborhood**
  - Jane Gentile (ZEO) stated
    - She has never received any complaints regarding any of the short-term rentals in this neighborhood
- **Special Permit Approval**
  - Law requires that ZBA approve permits if applicants meet the criteria established in the Village code
    - Although the Board respects the perspectives of neighbors, they have no legal authority to deny or approve permits on the basis of subjective criteria.
    - Public hearings give the Board an opportunity to discover if Village residents know of reasons that can legally be taken into account that the Board has not thought of or is not aware
    - Helps assure that Board decisions are not capricious or personal

- **PUBLIC HEARING CLOSED BY: SUSAN SNELL - AT 6:00 PM**

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

(a) 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 4 foot from property line in replacement of the existing mudroom

- **PUBLIC HEARING OPENED BY: SUSAN SNELL - AT 5:50 PM**

- **DESCRIPTION**
  - **Frank Leo Recused Himself**
    - the application was his
  - **Project specs**
    - **Roof Height**
      - Height will be 22-feet-10-inches to match the height of existing roof on main structure
    - **Distance From Property Line**
      - Existing one-story mudroom to be removed is 3-feet-9-inches from the property line
      - Proposed two-story addition to replace the mudroom will be 4-feet from the property line
    - **Setback Request**
      - 6-feet setback variance
      - 4-feet from property line
    - **Criteria For Approval**
      - Susan Snell
        - Read (out loud) each of the applicant's application responses
        - Stated that the 16-foot addition was not considered substantial due to the large size of the lot
        - Invited the public to respond
    - **Neighbor Input**
      - No neighbors have objected to the proposed project
        - Only one neighbor will be able to see the addition
        - The neighbor received the required notice from the Village
        - He did not appear at the public hearing
        - He has not contacted the ZEO to complain
        - No letter has been submitted for or against the project
- **PUBLIC COMMENTS**
  - **NONE**
- **PUBLIC HEARING CLOSED BY: SUSAN SNELL - AT 6:00 PM**

- **FRANK LEO UNRECUSED HIMSELF**

REGULAR AGENDA: (3) ITEMS

1. 52 Chestnut Street (Terry Novorr)

(b) 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**
  - **Complaint History**
    - Frank Leo
      - Asked the ZEO if any complaints have come in via the police over the last two years for any transient rentals
    - Jane Gentile (ZEO)
      - **Parking complaints**
        - Never come to the ZEO since the cars can belong to anyone
        - No way to know if they are tenants

- **Noise Complaints**
  - Should come to her
  - She has NOT received any noise complaints
  - Susan Snell
    - Noise metering will only catch loud ongoing noise like music

- **MOTION**
  - **Made by:** Marcie Schwartzman / **Seconded by:** Frank Leo
  - **Motion To:**

    To **APPROVE** a **SHORT TERM RENTAL SPECIAL USE PERMIT** for the **RENTAL OF THREE (3) BEDROOMS at 52 CHESTNUT STREET - AS PER APPLICATION DATED JULY 15, 2019**

  - **Vote:**
    - **AYES (4):** Snell / Schwartzman / Leo / Hollis
    - **ABSTENTIONS (0):**
    - **NAYS (0):**
    - **MOTION APPROVED**
- **NEXT STEPS**
  - **NA**

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

(a) 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 4 foot from property line in replacement of the existing mudroom

- **DISCUSSION**
  - None
- **MOTION**
  - **Made by:** Marcie Schwartzman / **Seconded by:** Denise Hollis
  - **Motion To:**

    Grant a **SIX (6) FOOT AREA VARIANCE** for **94 CHESTNUT STREET** to **ADD A TWO-STORY REAR ADDITION** - as per **SITE PLAN DATED JULY 26, 2019** and **ELEVATIONS DATED AUGUST 8, 2019**
    - **EXTENDING 16 FEET DEEP**
    - **LOCATED FOUR (4) FEET FROM THE SOUTH PROPERTY LINE**
    - **ROOF HEIGHT WILL NOT EXCEED EXISTING ROOF HEIGHT**

  - **Vote:**
    - **AYES (3):** Snell / Schwartzman / Hollis
    - **ABSTENTIONS (1):** Leo (due to conflict of interest)
    - **NAYS (0):**
    - **MOTION APPROVED**
- **NEXT STEPS**
  - **NA**

3. MINUTES REVIEW: Zoning Board of Appeals REGULAR MEETING: AUGUST 6, 2019

- Error(s) **/** Correction(s) Requested
  - **O** As Per Errors Noted On A Copy Of The August Meeting Minutes
  - **o** Change: P1:

- from: [*Acquired certificate authority]* to: [*Has already acquired a NYS certificate of authority]*

- **o** Change P3:
  - from: ***[(x) number of years]*** to: ***[a number of years]***
  - from**: *[than what was possible]*** to ***[from what was possible]***
- **o** Change P4:
  - from: ***[Spoke with Village Attorney (Martin Tillapaugh) who said argument sounded valid****]*
    to: 2 bullets as follows
    - o ***[Spoke with Village Attorney (Martin Tillapaugh)***
      - ***Believes the Village Attorney thought the argument had some validity]***
- **o** Change P5:
  - from: ***[COMPAINT]*** to ***[COMPLAINT]***

- **MOTION:**
  - **o** **Made by:** Marcie Schwartzman / **Seconded by:** Susan Snell
  - **o** **Motion To:**
    - **APPROVE** the minutes of the **REGULAR ZBA MEETING** held on **AUGUST 6, 2019** - **AS CORRECTED**
  - **o** **VOTE:**
    - **AYES (3**): Snell / Schwartzman / Leo
    - **ABSTENTIONS (1):** Hollis (not present at the meeting being voted on)
    - **NAYS (0):**
  - **MOTION APPROVED**

NEXT MEETING

- o Scheduled for **TUESDAY, OCTOBER 1, 2019**

MOTION TO ADJOURN

- **MOTION MADE BY:** Marcie Schwartzman **/ SECONDED BY:** Denise Hollis
- **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 my 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