

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 1

PRESENT: Chair Ed May
Commissioner Joseph Ficano
Commissioner Robert Lawson
Commissioner Karen Geasey
Commissioner Louis Shields
Commissioner John Rafter
Commissioner Paul Robinson
Council Member Bob Brzozowski

ABSENT: None

Chair May called the regular meeting to order and asked the Clerk to call the roll.

PETITIONERS

Chair May asked if there was anyone who wished to speak to any item not listed on the agenda.

Hearing none the Chair moved to correspondence.

CORRESPONDENCE

City Clerk Koury reported on the following correspondence that has been entered as received:

•The following letter was received from Gerry and Debi Hunsberger, 140 East Street, Oneonta, dated May 29, 2012:

“City of Oneonta, City Hall

ATTN: James Koury, City Clerk 258 Main Street

Town of Oneonta, Supervisor Mr. Robert T. Wood

3966 State Hwy. 66/PO Box A West Oneonta, NY 13861

Dear Mr. Wood and Mr. Koury:

Being relatively new residents of East Street in the City, we are not fully informed of the property rules enforced here. Recently, the request and subsequent approval of changes to the use of the property that Mr. Ranieri owns at 176 and 178 East Street has come to our attention.

We feel compelled to write to you to express our concerns. We have listed the most serious ones below.

- *The current owner's lack of consideration for the homeowner at 174 East Street, by removing the tree lined embankment that made 174 East more private. If he shows that kind of consideration for them, what kind of consideration will he show to other neighbors?*
- *Traffic increase*
- *Likelihood of inappropriate or threatening activities occurring in a remote and unattended parking lot.*
- *Pedestrian access would only be along streets that have no sidewalks — Bugbee, East and Meadowbrook, making it more dangerous in an area where vehicles are already frequently traveling at rates much over the speed limit.*
- *No need in the neighborhood for additional parking. Almost never is a car parked along this area of East, Woodside, Meadowbrook or Bugbee Streets. People who live in center city that need parking are not going to park way out here, requiring a bus ride or a twenty minute uphill walk to retrieve their vehicle.*

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 2

(Correspondence) continued

- *The lighting required to keep such an area safe would be disruptive to the adjacent residential neighborhood. Recently, emergency work on the Meadowbrook Lane culvert for Oneonta Creek required lighting that was quite evident as far south as the high school entrance.*

We request that you forward this letter to the appropriate deliberative body within your jurisdiction that would consider Mr. Ranieri's request. And, we invite discussion about this extremely important matter.

Sincerely,”

- The following was received from Julie L. Carney, 6 Maple Street, Oneonta, dated June 23, 2012:

“To: City of Oneonta Zoning and Housing Board of Appeals

Re: 17 Maple Street demolition and paving proposal, on meeting agenda of 06/25/2012, 7pm

Honorable Commissioners,

I am writing to ask you to deny the request by Larry Stevens Excavating to demolish the carriage house behind AOPi sorority at 17 Maple Street and pave the back yard for parking.

I would ask you to please draw the line here, and stop the demolitions, de-greening and paving of our historic and once beautiful neighborhood.

In the past couple of years, the City has allowed the demolition of outbuildings, the removal of trees, shrubs, gardens and lawns, and the creation of new parking areas at three separate historic Maple Street sites below Center Street. The City allowed the removal of a garage at 2-4 Maple Street, a property on the National Historic Register and part of the Walnut Street Historic District. Concurrent with that demolition, the entire lawn and all trees behind the property (now known as 343 Main Street) were completely removed and the entire lot paved, with no new plantings to buffer the area nor absorb the heat produced. Please see attached photo.

A garage was also allowed to be removed from 10 Maple Street, known as the “exceptional” Stanley Morris House on the National Historic Register. Also allowed was the removal of trees and lawn and the creation of a new and expanded continuous parking area behind buildings from 10-14 Maple. There is no rear lawn area behind these structures now. On the positive side, this appears to be the only one of the three properties where a permeable surface was used for the parking area.

Less than a block away, the City allowed the removal of a garage at the historic Frances Rowe House at 31 Maple, and the paving of the entire back yard, where once a lawn and lovely garden of daffodils and lilac bushes existed, no doubt tended by Frances Rowe herself. A half dozen puny shrubs were planted at the right of the lot, which is frequently empty. (photo attached)

Although 17 Maple is not a part of the Walnut Street Historic District, it would certainly be eligible for listing. And the “garage” slated for demolition is a beautiful 2-story carriage house. Although the structure may be impractical for college students of today, a future owner might realize its beauty and be able to preserve and make use of the building, as do the owners of the carriage house right next door at 15 Maple Street.

I would suggest that young healthy college students are capable of parking and walking from elsewhere and there is no pressing need for this further destruction of our neighborhood. In fact, almost directly behind AOPi, there is a parking lot that is empty approximately six and a half days a week.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 3

(Correspondence) continued

Has AOPi explored renting spaces from St. Mary's church? It could be a very mutually beneficial arrangement. And, I should point out, 17 Maple is on the OPT bus route. No car is needed to live there.

I know this board is aware that paving can lead to pollutants entering our storm water systems, and that the removal of trees and vegetation can lead to higher ground temperatures and higher energy consumption required to cool our homes where trees used to do the work for free. [http://depave.org/learn/why-depave/]

I know also that this board wants to help the City of Oneonta retain its families and attract new visitors. Our historic buildings, even the outbuildings, are a source of pride to Townies. And no one wants to live next to a parking lot. Please deny this request and help preserve our neighborhood. Thank you."

APPROVAL OF MINUTES

MOTION, made by Commissioner Geasey and seconded by Commissioner Robinson, that the Zoning and Housing Board of Appeals approves the minutes of the regular meeting held May 21, 2012.

Voting Ayes: Chair May
Commissioner Ficano
Commissioner Lawson
Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Commissioner Robinson

Noes: None

Absent: None

MOTION CARRIED

PUBLIC HEARING ON REQUESTED VARIANCES

The Notice of Public Hearing on the following request was duly published in The Daily Star on Monday, June 18, 2012. Affidavit as to proof of publication is attached hereto:

- 1. Rapp Signs Inc. is requesting an area variance for a sign in order to install a new wall sign at Adirondack Transit, 2-10 Chestnut Street, Oneonta, New York.*
- 2. James C. Kenney is requesting a use variance in order to use 6 Forest Avenue, Oneonta, New York as a two (2) family dwelling. There are two (2) rooms in each apartment that meet the requirements to be used as bedrooms.*
- 3. Larry Stevens, Stevens Excavating, is requesting an area variance for parking, a site plan review for demolition, a short environmental assessment form and a sketch plan conference in order to demolish an existing garage at 17 Maple Street, Oneonta, New York. The area will then be converted to a parking area.*
- 4. Joseph Rotolo is requesting an area variance and a short environmental assessment form in order to extend the rear side of the house located at 37 West End Avenue, Oneonta, New York to create more room for an existing bedroom and a half bath. He also wants to include a small deck and provide a new entrance.*

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 4

NEW BUSINESS

1. **2-10 Chestnut Street (47 Market Street) (300.31-1-36): Area Variance: Sign – Rapp Signs, Inc.:** The applicant wishes to install a new wall sign at the referenced property for the business owner Adirondack Transit.
2. **6 Forest Avenue (300.07-4-71): Use Variance – James C. Kenny:** The applicant wishes to use the referenced property as a two (2) family dwelling. There are two (2) rooms in each apartment that meet the requirements to be used as bedrooms.
3. **17 Maple Street (288.18-4-46): Area Variance: Parking, Site Plan Review: Demolition, Short Environmental Assessment Form and Sketch Plan Conference – Stevens Excavating:** The applicant wishes to demolish an existing garage at the referenced property. This area will then be converted to a parking area.
4. **37 West End Avenue (287.19-3-09): Area Variance and Short Environmental Assessment Form – Joseph Rotolo:** The applicant wishes to extend the rear side of the house to create more room for an existing bedroom and a half bath. He also wants to include a small deck and provide a new entrance.

Chair May addressed the items of New Business as follows:

1. **2-10 Chestnut Street (47 Market Street) (300.31-1-36): Area Variance: Sign – Rapp Signs, Inc.:**

The following Memorandum, dated June 11, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: **PROPERTY ADDRESS:** 2-10 Chestnut Street
 PROPERTY OWNER: City of Oneonta
 BUSINESS ADDRESS: 47 Market Street
 BUSINESS OWNER: Adirondack Transit
 TAX MAP #: 300.31-1-36
 APPLICANT: Rapp Signs, Inc
 ZONING DISTRICT: MU-1: Downtown Mixed-Use District
 APPLICATION TYPE(S): Area Variance: Sign

PROPOSAL: *The applicant wishes to install a new wall sign at the above referenced property for the above referenced business.*

<u>CODE SECTIONS</u>	<u>CODE REQUIREMENTS</u>	<u>EXISTING / PROPOSED</u>
§ 300-23 A (1)	<i>Wall sign: Signs flush to the façade shall not project out from the façade greater than 6 inches.</i>	<i>The proposed depth of the sign is approximately 8 inches.”</i>

Thirty-three (33) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and no responses were received.

Mr. Pat Doyle of Rapp Signs stated they were requesting a variance for the depth of the sign at Trailways Bus Terminal. He said they took down some old and deteriorated signs at that location and wanted to replace them with an 8” deep sign in a cabinet of aluminum. He said the sign was the same depth as all single face building signs.

Commissioner Shields stated it looked like a beautiful sign but thought it was unfortunate that it had to be applied to a surface that was not freshly painted.

Mr. Rapp stated he would relay that message to the client.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 5

(New Business – 2-10 Chestnut Street) continued

MOTION, made by Commissioner Shields and seconded by Commissioner Rafter, that based on site visits by members of the Zoning and Housing Board of Appeals and testimony heard at the June 25, 2012 meeting, the board grants an area variance to install a new wall sign approximately 8” in depth at 2-10 Chestnut Street as per the application from Rapp Signs, Inc.

Voting Ayes: Chair May
Commissioner Ficano
Commissioner Lawson
Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Commissioner Robinson

Noes: None

Absent: None

MOTION CARRIED

2. **6 Forest Avenue (300.07-4-71): Use Variance – James C. Kenny:**

The following Memorandum, dated June 11, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: **PROPERTY ADDRESS:** 6 Forest Avenue
 PROPERTY OWNER(S): James C Kenny
 TAX MAP #: 300-07-4-71
 APPLICANT(S): James C Kenny
 ZONING DISTRICT: R-2: Moderate Density Residential District
OF DWELLING UNITS: 2
 APPLICATION TYPE(S): Use Variance

PROPOSAL: *The applicant wishes to use of the above referenced property as a two (2)-family dwelling. There are two (2) rooms in each apartment that meet the requirements to be used as bedrooms.*

<u>TABLE</u>	<u>CODE REQUIREMENTS</u>
300-92 <i>Permitted Uses by District</i>	<i>2-family dwellings are not listed as a permitted use in this zoning district.</i>
300-101 <i>Parking Requirements by Use</i>	<i>2-family dwellings require 1.5 parking spaces per dwelling unit.</i>

Because this use is not permitted in this zoning district, there is no minimum lot size requirement listed.

This property is registered as a residential rental property. A current requirement schedule for this property is attached. This property does not have a valid Certificate of Substantial Compliance. The certificate cannot be issued if this application is not approved.”

Fifty-one (51) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and one response was received.

•The following was received from Peter and Shelby Casola, 5 Forest Avenue, Oneonta, dated June 24, 2012:

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 6

(New Business – 6 Forest Avenue) continued

“To Whom it May Concern,

This letter is being written due to receiving a letter from the Office of the City Clerk in regards to James C. Kenny requesting to use 6 Forest Avenue, Oneonta, New York as a two family dwelling.

As a homeowner residing at 5 Forest Avenue, which lies directly across the street from the above said address, we are concerned that there are already two other rentals located on Forest Avenue. The neighborhood is not zoned for two family dwellings pursuant to Section 300-92 of the City of Oneonta Zoning Code which states, "two-family dwelling are not listed as a permitted use in the R-2 - Moderate Density Residential District." Additionally, we have a tremendous amount of concern over the issue of available parking space in the neighborhood.

Having lived in our home for a little over four years, we have seen many different occupants of said residence and their multiple vehicles have been parked all over the street. Our concern is that they do not utilize the off street parking provided for them (driveway located next to house). The occupants are either parked directly in front of our home or when they must park on the opposite side of the street they make it very challenging to back out of our own driveway. Additionally, they use up all of the on street parking which causes a tremendous inconvenience to the single family home residents of the neighborhood. We are very concerned that the street is now much narrower due to the new sidewalks installed last summer. This past winter was very mild and did not result in much snow, however any amount of snow plowed will make the street even narrower and several people parking on the street will make it dangerous for us to safely back out of our driveway.

Our concern regarding the variance requested to the City of Oneonta Zoning Code is that if 6 Forest Avenue is permitted to be used as a two family dwelling, it will further disrupt the character of the neighborhood as one that is family oriented and based around single family residences. This could potentially affect the "livability" of the neighborhood long term and further force families out of the neighborhood. This will have an adverse affect on both home values and, therefore, the tax base. Also, we have a concern that the increased traffic that will result from the issuance of the variance could cause safety concerns for the many young children that currently reside on the street, including our own.

We intentionally purchased our home in a single family residential neighborhood because of the characteristics of such neighborhoods and we hope that this character can be preserved. Thank you for your attention in this matter and please take these concerns into consideration when you make your decision about issuing a variance that would allow 6 Forest Avenue to use as a two family dwelling.”

Mr. James Kenny stated this building that he purchased in 2009, although it was not on the books as a two-family, the building structurally was a two-family. He said he failed to register that building as a two-family because he had family members living in that building. He said he since learned that the zoning in that area changed from two-family to single-family and Code said he had to rectify this and told him he had to apply for a variance to put the building back to the two-family as it originally was.

Commissioner Ficano asked Code Enforcement Officer Chiappisi about the history of the property and if it was kind of a non-conforming use for years and was it one of many properties that went unknown as being a two-family.

Code Enforcement Officer Chiappisi replied it was an interesting question. He said the new Zoning

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 7

(New Business – 6 Forest Avenue) continued

Code was what it was and the historical record does not come into play because the Code Enforcement Office was unaware of any records of it being a two-family.

Commissioner Ficano stated there was a difference between grandfathering a non-conforming use or an existing non-conforming use and looking at a variance and he expressed concern about there not being a handle on that.

Commissioner Lawson asked about when the modification was done.

Mr. Kenny replied it would have started in 2009. He said he realized it was not used as a two-family but it had two kitchens, two bathrooms, two entrances and therefore he assumed it was a two-family and just was not used as a two-family.

Commissioner Ficano questioned if when Mr. Kenny purchased the building it already had two kitchens.

Mr. Kenny responded that was correct.

Commissioner Lawson stated that was what he was asking, if it was that way when he purchased it.

Mr. Kenny replied the kitchen was not actually in use but he did not plumb, wire or install a kitchen. He said it was plumbed as a kitchen and he replaced cabinets and appliances. He said a separate entrance was already there. He said the board had some photographs and he did not do any reconstruction to make it a two-family.

Commissioner Geasey stated there were two separate entrances but were the two alleged apartments separated from the inside as well.

Mr. Kenny stated that was correct. He said there was a stairwell but there was none now. He said you could not get from the first floor to the second floor from inside the house; only from the outside.

Commissioner Geasey questioned if there were separate mailboxes.

Mr. Kenny responded that was correct.

Commissioner Geasey questioned if presently one of Mr. Kenny's relatives live there but not Mr. Kenny.

Mr. Kenny responded that was correct.

Commissioner Geasey questioned if the other apartment was being rented.

Mr. Kenny responded two of his children were occupying both apartments. He said that was why it was not registered when he first bought the building because the zoning was different then and it was his understanding from the Code Enforcement Office that if a building was going to be used for family he would not require to register it as a rental.

Commissioner Geasey questioned if that was going to be changing and that was why Mr. Kenny needed to change this.

Mr. Kenny responded that was a long story but because it was a two-family he wanted to register it as a two-family.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 8

(New Business – 6 Forest Avenue) continued

Commissioner Rafter stated in the packet was a document from the City Assessor of the 2012 Assessment Notification describing this parcel as a 2 family residence. He said that was confusing.

Chair May asked if Mr. Kenny owned other rental property in the city.

Mr. Kenny replied yes he did.

Chair May asked if Mr. Kenny was aware that there was a rental registry form that was filled out every year on the property for the Code Enforcement Office and if he complied with that on the other properties he owned.

Mr. Kenny replied that was correct.

Chair May asked if Mr. Kenny was aware that the city recently underwent a 2½ year process to revamp its Zoning Code.

Mr. Kenny replied he was now.

Chair May stated he was concerned about making exceptions to the Zoning Code that was just enacted especially in light of the fact that Mr. Kenny could have easily registered the property as a two-family and had it inspected by the Code Enforcement Office as a two-family anytime prior to the enactment of the new Zoning Code. He said he could have preserved his right as a grandfathered use. He said now Mr. Kenny was before the board asking for a use variance, one of the most difficult variances to obtain. He said use variances were rarely handed out with substantial hardship. He said there was some conflicting information that has been picked up by the board members and that the assessor had it listed as a two-family residence. He said he tried calling the City Assessor's office to find out where that information came from and the Code Enforcement Office does not know of a document in the city. He said for one he was not in favor of issuing a use variance and four votes would be needed to approve it.

Ms. Kenny asked if it was not true that there was a need for rentals for working families and adults in the city. She said in fact the Mayor recently was quoted as saying that the city needed more rental properties available for adults who were working. She said the area this particular rental was in was one that was not desirable by the college students. She said in fact she believed there were 4 or 5 rentals on this street for adults who were working in the community.

Chair May responded yes.

Ms. Kenny stated they did get something in the mail about it already being taxed as the Assessor thinks it was a two-family. She said they thought it was a two-family. She said she was not sure how that bears on the future but her feeling was that right now there were 2 working adults who work in the community or were living in the property and she thought there was a need for that kind of housing. She said she hoped that supports their goal.

Chair May stated clearly there was a need for housing but as part of that need there was a 2½ year process where a group of people under the auspices of the Zoning Task Force who viewed all the properties in the City of Oneonta and desired what areas were desirable for single-family and multi-family housing. He said the R-2 zone precludes multi-family houses. He said the Kennys had the opportunity of filing a simple rental registry form and had they done that with the Code Enforcement Office they would have preserved the two-family status.

Chair May asked if Code Enforcement had any rental registry form for 6 Forest Avenue.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 9

(New Business – 6 Forest Avenue) continued

Mr. Kenny stated he did not do that. He said there was one now but he did not do that at the time of the purchase. He said it was typically mailed to him but he did not fill it out and that was an error on his part. He said with the rezoning it never occurred to him that this area was affected. He said he has complied with the required furnace inspection and housing inspection as a two-family.

Code Enforcement Officer Chiappisi stated everything appeared to be okay with inspections but that it was just this issue of whether it was a two-family.

Chair May questioned if it was inspected as a two-family.

Code Enforcement Officer Chiappisi responded yes.

Chair May questioned if it was inspected as a two-family prior to the adoption of the new Zoning Code.

Code Enforcement Officer Chiappisi responded no.

Chair May stated so it was subsequent to the adoption of the new Zoning Code.

Code Enforcement Officer Chiappisi responded correct.

Chair May asked if there was any evidence that this was a two-family home prior to the adoption of the new Zoning Code.

Mr. Kenny replied he did not other than the physical design of the building. He said he knew there was a difference on paper from what was there but what was there was a two-family building. He said he had no idea what went on before he purchased the building.

Mr. Jim Phillips, Forest Avenue, stated this was a single-family home when owned by the Moores.

Ms. Gloria Layman, Forest Avenue, stated if this was a two-family dwelling it should have a fire escape and there was not. She said there was just one exit. She questioned if that would have been dealt with through Code Enforcement when there was an inspection.

Chair May stated that was a Code Enforcement issue and if in fact it was a two-family. He said the Code Enforcement Office had no indication that it was a two-family home prior to the adoption of the city's new Zoning Code. He said all of this has come up after the enactment of the new Zoning Code.

Ms. Layman stated the parking continues to be a problem because there was not enough room now for them to park most of the time because of people that were renting who sometimes say they only had 2 people but instead there were 4 or 6 people staying or visiting.

Chair May stated there was no reserved public parking in the city.

Ms. Kathy DeAngelo, Forest Avenue, stated if the board notes that because of the construction that went on in this past 2 years the city made parking permitted on one side of the street. She said if it was bad before it was really bad now. She said if the property was going to be a two-family dwelling her personal feeling was there had to be enough parking spaces for the people living there.

Commissioner Robinson stated he visited the property recently and saw it did have a driveway that would allow for one car. He said even if this was short on parking he would still like to know where the City Assessor came up with this being a two-family and what records he had showing that.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 10

(New Business – 6 Forest Avenue) continued

Commissioner Ficano stated utility records prior to 2011 could show if this really was a two-family.

Code Enforcement Officer Chiappisi stated he believed there was one meter.

The board held a brief discussion on some of the items mentioned.

Commissioner Geasey asked if the realtor presented the property as a two-family to Mr. Kenny.

Mr. Kenny replied no he did not use a realtor. He said he had lived next door to the building and knew the owner.

Commissioner Ficano questioned if Mr. Kenny still lived next door.

Mr. Kenny responded he owned the building next door and did not live there any longer.

Mr. Peter Friedman, Maple Street, stated at the Huntington Memorial Library he thought there was a full set of Oneonta directories that go back many years and one could check to see how many phone listings there were for this property then. He said that could give a pretty good idea of when the property was converted to a two-family. He said Code Enforcement could check old records to see if there was ever a building permit acquired to make the conversion.

Chair May asked Code Enforcement Officer Chiappisi if all records were searched in the Code Enforcement Office and could not ascertain if this was a two-family.

Code Enforcement Officer Chiappisi replied he could not find anything in city records.

Chair May stated it was the sense of the board and from his perspective that the property owner could have easily registered the property and this problem would have been moot. He said the owner did not do that. He said a long time was spent drafting the new Zoning Code and try to protect certain neighbors especially those in the R-1 and R-2 zones. He said he was still in the position of having difficulty with voting for this affirmably.

Commissioner Ficano stated much like Commissioner Robinson he would like more information.

Chair May stated he was not sure what that additional information would give the board. He said this was a Code issue and it was a rental home and it must be registered with the Code Enforcement Office. He said the rental registry was not a new form and had been around for many, many years.

Mr. Kenny stated he did call the Code Enforcement Office and was told that if family was going to live in the building it did not require to be registered.

Chair May stated a single-family residence with family living in the structure there could be any number of related people. He said if it was a rental structure it would be limited to 3-unrelated individuals.

Mr. Kenny stated he did not register it out of spite or rebelliousness but because he was told that he did not have to because family members would be living there. He said maybe he should have went to Code Enforcement personally and spoke to someone at the top. He said he did not think the board could punish him because he failed to do something that was not out of spite.

Chair May stated the board's objective was not to punish anyone. He said he brought up the matter of compliance with the rental registry because Mr. Kenny owned other rental properties, was familiar with the rental registry and registering was the law of the city for a protracted period of time.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 11

(New Business – 6 Forest Avenue) continued

Mr. Kenny questioned what the Chair would say if he had gone to Code Enforcement and asked them the question and they said he did not have to register it and then did not.

Ms. Kenny stated they were before the board to make this right. She said they had done a lot of improvements to the house and lots of inspections. She thought they were before the board to correct the situation.

Chair May asked Code Enforcement Officer Chiappisi if he issued a building permit.

Code Enforcement Officer Chiappisi replied no. He said he wanted to clarify how the Code Office registers properties. He said when they receive notification from the county that a property was transferred generally the Assessor get the first notice and the Assessor forwards it to Code Enforcement. He said by the time he gets notification it was anywhere from 4 weeks after the sale of the house and could take as long as 6 months for him to get the paperwork. He said at the point when they get the property transfer a property use form gets sent to the owner and that was the rental registry. He said it used to be two separate forms but now it was combined into one. He said by returning that property use form a rental would be registered because it basically asks if the property was owner occupied and if it says “no” Code Enforcement Office flags it as a rental and starts the inspections. He said for about every 10 forms Code Enforcement Office sent out on property transfers they get about 6 back and they do send out 2nd notices to those who do not send them back.

Chair May questioned if Mr. Kenny did not show up at the Code Enforcement Office for a building permit for any work that he just said he did in the house.

Code Enforcement Officer Chiappisi responded not that he recalled.

Chair May asked if it was possible for Code Enforcement Officer Chiappisi to check on that.

Code Enforcement Officer Chiappisi replied yes.

Commissioner Geasey questioned if the Kennys were paying more in taxes because it was a rental property versus if it was not seen that way.

Commissioner Lawson stated property taxes were not based on the income of a property but on the improvements.

Council Member Brzozowski stated there must be lots of examples where extended families or different parts of the same family live in a house and he questioned how the city defined what was an extended family living in a single unit versus different parts of the same family living in two units. He wondered if it was by a separate entrance or whether one was paying rent to the other and questioned how that worked.

Code Enforcement Officer Chiappisi stated they do not do DNA testing. He said he finds it hard to answer that question.

Chair May stated he owned a number of properties around the city and sometimes he had family living in them and sometimes he did not but he fills out the rental registry form every year, resubmits it and has the house inspected. He said that way he preserves his rights and as a business owner that was his responsibility.

Commissioner Geasey stated if Mr. Kenny’s family were the only people he would have live in the property he would not be before the board and have that changed at least for now. She said she was guessing that Mr. Kenny was trying to change it.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 12

(New Business – 6 Forest Avenue) continued

Mr. Kenny responded that would be true but because it was a two-family and the zoning was changed he wanted to correct that and make it a two-family for the future. He said he went through considerable expense to renovate and improve the property. He said if it could not be a two-family at this point he did not know what that means. He said he did not believe the property was detrimental to the community, it has been occupied as a rental for several years and he did not believe anybody had any complaints about what goes on there.

Mr. Phillips stated that he did.

Commissioner Ficano asked Mr. Kenny about who was living in the two units currently.

Mr. Kenney responded his son lived upstairs with a partner and his daughter lived downstairs.

Commissioner Ficano questioned if Mr. Kenny saw that changing soon.

Mr. Kenny responded anything could happen.

Commissioner Ficano stated if the board gets more conclusive feedback from the Assessor and find evidence that it was a two-family house he thought that changed things and that was material. He said if he was pushed to vote now he would “yes.”

Chair May stated he would be happy to table this if that was the board’s wish and to try to look for more information but at the end of the day the board would get from the Assessor what it has now.

The board held a brief discussion on the information mentioned.

Commissioner Robinson stated he thought the board ought to see what the Assessor’s records showed and the timeframe if possible. He said he would move to table the matter for one month.

MOTION, made by Commissioner Robinson and seconded by Commissioner Shields, that the board tables the use variance request by James C. Kenny for 6 Forest Avenue for one month until the July meeting.

Voting Ayes: Chair May
Commissioner Ficano
Commissioner Lawson
Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Commissioner Robinson

Noes: None

Absent: None

MOTION CARRIED

Voting followed this discussion.

Chair May stated the motion was to table the matter to discuss it again next month and he asked Mr. Kenny if that was acceptable.

Mr. Kenny responded yes and asked if there was another option.

Chair May replied yes Mr. Kenny could push for a vote but this gives the board an opportunity to

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 13

(New Business – 6 Forest Avenue) continued

check with the City Assessor to see if they could get anymore credible information there and for Code Enforcement and Mr. Kenny to do a little more research about the history of the property.

Chair May asked the Clerk to send a memo to the City Assessor asking what he knows about this property.

3. 17 Maple Street (288.18-4-46): Area Variance: Parking, Site Plan Review: Demolition, Short Environmental Assessment Form and Sketch Plan Conference – Stevens Excavating:

The following Memorandum, dated June 13, 2012, was received from Ordinance Inspector Ferris:

“**SUBJECT:** **PROPERTY ADDRESS:** 17 Maple Street
 PROPERTY OWNER(S): Alpha Omicron Pi
 TAX MAP #: 288.18-4-46
 APPLICANT(S): Stevens Excavating
 ZONING DISTRICT: R-2: Moderate Density Residential District
 # OF DWELLING UNITS: Sorority - 21 unrelated individuals permitted
 APPLICATION TYPE(S): Area Variance: Parking
 Site Plan Review: Demolition
 Short Environmental Assessment Form
 Sketch Plan Conference

PROPOSAL: *The applicant wishes to demolish an existing garage at the above referenced property. This area will then be converted to a parking area.*

This property is registered as a residential rental property. A current requirement schedule for this property is attached. This property does have a valid Certificate of Substantial Compliance and a valid Special Use Permit.

TABLE:

300-101 *Parking Requirements by Use Sorority houses require ½ a parking space per bed plus ½ a parking space per nonresident member.*

CODE SECTIONS:

300-7 J *The provision of new off-street parking for existing uses is prohibited.*

300-61 G (11) *No rear or side yard parking areas in existence at the time of the adoption of this Chapter, on properties located in the R-2 or R-4 Districts, shall be enlarged to create additional parking spaces unless the enlargement is in the form of a permeable surface material.*

300-62 F *Demolition of all buildings, structures, and parts thereof, in all zones, shall be subject to Article VII of this chapter entitled, “Site plan review and approval”.*

§ 300-74 E: *The applicant is requesting a sketch plan conference to discuss what drawings and information the Board would like the applicant to submit for review.”*

Fifty-three (53) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and one response was received and entered under correspondence.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 14

(New Business – 17 Maple Street) continued

Mr. Thomas Fox, Hickory Hills Restoration/General Contractor stated he has proposed to hire Larry Stevens of Stevens Excavating to take down the vacant barn/carriage house for the sorority at 17 Maple Street.

Chair May asked what the reason was in demolishing the structure.

Mr. Fox replied the structure was in need of significant repair. He said the sorority has indicated to their Tennessee office that they did not feel they wanted to put the expense into a new roof structure, new soffit and foundation. He said the structure had really no means of security with the doors falling off the hinges, the windows were broken and there were raccoons and squirrels in both the upstairs and downstairs. He said given the amount of girls that stay there and the lack of security and off street parking, in the sorority's interest the building was posing a danger to the girls. He said the girls were not allowed to use it for any sorority function. He said it was a beautiful structure but it was in a lot of disrepair from neglect through the years. He said they would rather give the girls additional off street parking. He said the membership was somewhere between 14 and 16 girls that lived at this property. He said he would like to improve the property. He said improvements have been made over the past 4 years during the summer. He said he was on a short window because the girls graduate in May and return in August to the property and he would like to try to get an answer from the board now to take that building down and put a parking lot in.

Chair May questioned if no other use was seen for that building.

Mr. Fox responded economically to try to make that building either another living space and bring in water and septic could be in the hundreds of thousands of dollars. He said he did not know if the city wanted another building behind a building with 15 more girls living in it.

Commissioner Robinson stated he looked at the building and thought it was in a sad state of repairs. He said his only misgivings were losing the two big trees right in front of it.

Commissioner Rafter stated the building did not look good but it was not within expertise but it seemed severely neglected.

Mr. Fox stated each year they have Code Enforcement go through it and they pick on something such as a loose gutter, deteriorated shingles or something that has to be repaired.

Commissioner Rafter stated the building has been neglected for a long time and it was not the building's fault.

Chair May stated that the Code Enforcement Office did not pick on people. He asked if Mr. Fox had estimated the cost of repairing the building.

Mr. Fox replied the estimated cost of repair of the roof only was over \$25,000.

Commissioner Shields questioned what if nothing was done to the building.

Mr. Fox indicated it was not secured and there have been people found in it that were not members of the sorority.

Commissioner Ficano stated he thought the cost of hundreds of thousands of dollars was awfully high to make that building livable.

Mr. Fox asked if the Commissioner had been inside the building.

Commissioner Ficano replied no, he had seen it from the street.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 15

(New Business – 17 Maple Street) continued

Mr. Fox stated there were no utility setups, no fire rating, no egress and no septic for waste.

Commissioner Ficano questioned if it would be more expensive to repair this building than to knock it down and rebuild from scratch.

Mr. Fox stated to bring that early 1900's building up to a habitable building code for a sorority rental with 5 or more non-related people with a sprinkler system, something new could be built cheaper.

Commissioner Geasey questioned if this building was in the historic district.

Mr. Fox stated he did not believe it was.

Commissioner Geasey questioned who the owner was of the building and if they had ever seen the building.

Mr. Fox responded the owner was Alpha Omicron Pi sorority and their home base was in Tennessee. He said Woody Ratterman was the owner's property management representative and he visits 3 times a year. He said he was hired as a consultant and contractor to maintain the property.

Commissioner Geasey questioned if over the last several years Code Enforcement had noticed problems and asked that they be repaired but never were.

Mr. Fox responded instead of repairing the gutters he simply removed them. He said he had taken tree limbs off the roof.

Commissioner Geasey questioned if it had been brought up to Mr. Fox that there was another use for the building other than occupancy.

Mr. Fox responded he knew the girls were not allowed to use it for anything but storage. He said the upstairs of the building was completely locked off and had not been occupied during the 7 years he has worked for them.

Commissioner Geasey stated in thinking of the future and instead of tearing it down what could be done little by little and have it preserved. She said she was not as concerned about parking places as they obviously were.

Mr. Fox stated it was probably cheaper to tear it down and make a parking lot or put a new structure up.

Commissioner Geasey stated she would be happy with the latter because she was not happy with tearing it down to put in pavement.

Chair May asked about how long it would be before Code Enforcement Officer Chiappisi condemned that structure.

Code Enforcement Officer Chiappisi replied he has only seen it from the outside. He said he would have to do a total inspection.

Chair May recognized Mr. Peter Friedman and asked if he had a comment.

Mr. Peter Friedman, Maple Street, stated he had quite a few comments and wanted to know if he would have more than one opportunity to speak or should he make all his comments now.

Chair May stated it was up to him.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 16

(New Business – 17 Maple Street) continued

Mr. Friedman stated first of all he did not believe that anyone other than a legal representative of the owner could represent this issue before the board. He said he did not think the board could get any commitments from this man and he doubted that he was a local agent or an attorney for the owner. He said he thought it would behoove the board to postpone this hearing to another month when a representative could be there.

Mr. Friedman stated he had other comments and would like to read them.

The following comments were read by Mr. Friedman and may not be an exact inclusion due to a written copy not being presented:

“You’ve received a summary listing of the application types submitted for 17 Maple to demolish the carriage house and to construct a parking area on the site. This proposal requires in addition to the things that were listed an approval of an expansion of a non-conforming use. That’s not listed and to do that the ZBA has to use the stringent criteria it has for a use variance. This should be done before the site plan review and after notifications were sent out regarding that requirement.

The use of the property as a membership association house is a grandfathered use because membership associations are prohibited in that location. The creation of more parking at a grandfathered use should be considered as an expansion of the non-conforming use. The construction of more parking will increase the intensity of use of the property as more vehicles will enter and exit the parking area. Increasing the intensity of use of a non-conforming use is one of the three main categories of prohibited increases of non-conforming uses under the City Zoning Code.

The demolition of taxable real estate and especially if architecturally significant real estate should not be authorized unless the need is substantial and unless there are no reasonable alternatives. This is called demolition by neglect with what has happened. That’s a kind of a zoning term because the demolition has really already occurred without the site plan review because the owners of the property have not maintained it. Rewarding them by allowing them to tear it down is not a good policy for the city to set as a precedent here because then you’ll find other people doing the same thing. If the owner cites a lack of funds to maintain the building as part of their reason then a thorough analysis of their finances should be carried out by the ZBA. Perhaps the rent has been too low, perhaps too much of the rent has gone to owners account or to frivolous expenditures. Perhaps the conversion of the carriage house to some other use makes more sense. These things need to be investigated before you can make a decision on this.

If the owner cites as part of their reason a lack of off street parking, this seems like a minor problem that cannot compare to the loss of the community of this beautiful little carriage house. The quality of the city’s architecture is one of its greatest assets. Demolition needs stronger justification than what they’ve provided.

The statement in the application that 21 individuals are permitted here is probably not based on the thorough assessment of whether or not there exists a partial loss of grandfathering that would have occurred if there was a reduction in the actual number of occupants for a period of six months or more. This assessment needs to be done. There were only 13 residents in 2007. If a reduction in the maximum permitted number of unrelated individuals is in order today then a reduction in parking needs would follow. They may not need anymore parking.

The stated purpose and intent of this zone as stated in the City Code, the new Zoning Code, is to encourage the conversion of existing higher density unrelated individual occupancies to senior citizens, family or adult house. The membership association’s use of this property has one of the

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 17

(New Business – 17 Maple Street) continued

highest densities of unrelated individuals of any house in the R-2 Zone. The approval of this parking lot will further the entrenchment of this membership association use in the zone and this would have the opposite affect of the purpose and intent as would also the loss of any potential future use for the carriage house.”

Mr. Friedman stated if the corporation cannot afford to maintain the property it should sell it to someone who can. He asked if Mr. Fox knew how many sorority houses they owned.

Mr. Fox responded he did not but knew it was nationwide.

Mr. Friedman stated he thought it was in the nature of 50-150 other sorority houses.

Ms. Roseann Perone stated she lived at 13 Otsego Street but grew up at 18 Maple, the house directly across the street from this home. She said before the sorority took possession of the house it was a single-family home. She said the Lewis family lived in that home and the property was maintained, the carriage house was functional and they parked cars in it. She said there was real concern in the neighborhood when the sorority got possession of the house and moved in. She said it really bothered her that somebody could let a structure go for as long as they have. She said her guess was that pretty much the entire time the sorority was at that location that little, if anything, has been done to maintain that structure. She said and now they want to tear it down and want to create a parking lot. She said the house next door, which was Dr. Wilks home, which also had a carriage house that became lost and a home for somebody. She said when the new zoning passed the people were told that some of what was happening in the city was less likely to happen and that it was going to be more difficult for these kinds of things to happen and already the fight has begun. She said there was a house next door to her on Otsego Street that had a regular 4-car garage and was concerned about what would happen to that when the only resident, a 90-year old woman was no longer able to live there, and if that garage would come down and a very large blacktop parking lot be her next door neighbor. She questioned what would happen in other areas if this happens on Maple Street in an area with houses of historic significance. She said it makes it really hard for those who were trying to maintain their single-family dwelling and this was going on around you. She said it makes people really, really tired of fighting. She said her sister still lives in her house at 18 Maple and she thought she was at the point where she was just really, really tired of it.

Council Member David Rissberger, 3rd Ward, stated he thought one thing that had been discussed a lot recently was the entry way into the city. He said so many people come in off Lettis Highway and see Maple Street and that was why a lot of time and effort was put into Curtis Park recently. He said this house and that part of Maple Street really was part of the historic district. He said when people decided to buy a home they also make that obligation to take care of that home and keep it functional and keep it from falling down including all the structures. He said he fully agreed with everything Peter Friedman said and that it was a shame that somebody would buy a historic home with a beautiful ‘garage’ and neglect from the start and then their solution was to just tear it down was a shame. He said it should not be allowed. He said he thought the city wrote the new Code for a reason and he thought the city needed to follow it and take a stand. He said as far as parking goes, he said he did not support tearing that down to increase parking. He said that house was along the bus route. He said this house had meetings with more than 50 girls so that parking would not really help them for that either. He said he strongly urged the board to not allow this to happen.

Chair May asked him what he saw as an alternative.

Council Member Rissberger replied start fining them for not keeping the building up to Code. He said that building was owned by a national organization and he could not understand why they could not come up with the funding to maintain their own buildings.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 18

(New Business – 17 Maple Street) continued

Mr. Paul Patterson, 40 Elm Street, stated his home was directly on the other side of the fence of the carriage house. He said he was sorry to put Tom Fox in this position because he has done building for him and the fact that he was now on the demolition side he felt badly but that was a beautiful building. He said his wife and he came back to Oneonta after moving away because of places like Maple Street. He questioned what the legacy was that they would leave to their children, parking lots or maintained characters of all those things so near and dear to them. He said what really galls him was that because maintenance was deferred and things postponed that should have been done along that now the repairs became astronomical. He said perhaps if those things were done all along there would not be this big bill. He said he was kind of really shocked that they have not thought to close the doors to the garage to secure it. He said as far as parking, this house was between two bus stops and the bus goes by there every 15 minutes when there were classes and the schedule was good for evenings and weekends. He said as for keeping things green, tearing that building down and putting in blacktop goes against the issue. He said he thought this sorority was just as genteel as the people in Charlottesville, Virginia and they would not be talking about tearing such a beautiful structure down.

Mr. Dave Hutchison, 2 Irving Place, stated he walked through the place recently as much as he could but it was double padlocked upstairs. He said he could count spaces, maybe for 5 cars, if the junk of springs, tires, etc was removed. He said the concept that the sorority needs more parking and the solution to tear this down was not valid.

Chair May stated he was not certain their application was just necessarily for more parking. He said the parking was a result of what would be there when the structure was not.

Mr. John Carney, Elm Street, stated he lived behind where the Rowe property was and a year or two ago the city allowed the Rowe carriage house to be torn down. He said he did not understand the arguments at the time and did not attend the meetings because he really did not think it would happen because the building was in such good shape. He said Mrs. Rowe had a fair amount of money and spent money where it was needed. He said that was one of the few carriage houses in Oneonta that had siding on it. He said people stored costumes in it and the building was in excellent shape. He said somehow it got torn down and in fact it was not for parking but was for flowers and plants supposedly but the parking did increase. He said he understands there was another building that had been lost and he was not sure that went through Code Enforcement or this board but it just disappeared one day.

Ms. Elizabeth Powell, 18 Maple Street, she said she lived there all her life, it had been her grandparents homes and had been in their family for many years. She said she could probably go down both sides of Maple and tell about the single family homes that had been lost in that whole section and beyond of Maple Street. She said she knew Mrs. Rowe and she had a very strong love for the city and its historical character. She said she believed that was why she left her home to the city to make sure it did not go to student housing or a fraternity or sorority. She said she thought Mrs. Rowe would have been very sad to see that carriage house come down. She said she walked back there recently and that entire back yard was pretty much blacktopped now with 12 parking places behind the house. She said that legacy was gone forever and would not be left to younger people and future generations in her family. She said there was a house torn down on the corner and there was now a very large parking lot for the church. She said they were supposed to have put in a buffer of green shrubs and the church really has not done a great job with that. She said Bret Bresee has done a good job with 10 Maple Street and the home next to it but the entire back lawns of those two homes were gone and there was parking. She said they lost a lot of green space and it just seemed like it was happening over and over on Maple Street. She said then there was Robynwood and she did not know if anyone else has noticed but that was sort of a half-circle drive on Maple and there used to be some large planters but they disappeared last fall. She said she called Mayor Miller and Robynwood with concern that they were blacktopping all of it and she was assured that this

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 19

(New Business – 17 Maple Street) continued

spring all the plantings would be put back put there was no indication she could she that was going to happen. She said the agreement was that they would help maintain the character of the neighborhood and have nice florals. She said it was very disheartening seeing this happen over and over again on that section of Maple, Potter Avenue and that area. She said these were their homes where they lived and they were not transients and they did not want another parking lot on Maple Street. She said they all bought into these new zoning rules and districts and thought maybe they would not have to go and fight like they did in the past but they are getting really wearied. She said they want more people to move into these neighborhoods and not move out. She said the house across the street on the corner of Maple and Potter has just been sold. She said she met the people who bought it and it was a family and she did not have the heart to ask her to come to the board meeting to help fight against another parking lot going in almost across the street from her. She said the residents need the city's help to bring people into center city and not drive them away.

Council Member Brzozowski stated there had been a couple references to the National Register and the State Historic Preservation Office has told him that the entire center city was National Register eligible and certainly this property was one of them. He said he did some research into it and from what he could see that carriage house was there in 1903 and there were 6 families over the years that lived there. He said it had an interesting history. He said what the Rowe House looks like in the back now was an embarrassment.

Ms. Perone stated she spoke before blacktop and knew that according to Code a parking lot was to be a material that allowed water to percolate through. She said that property right next to Curtis Park was blacktopped and she questioned if that was done before the requirements.

Chair May responded it was done by the new Code.

Ms. Perone stated so something like that could not happen here.

Chair May stated that was correct.

Ms. Julie Carney, 6 Maple Street, stated she had to dispute that because she was at the meeting where Mr. Cleinman got permission to do that and he was told it had to be permeable and it was not.

Chair May stated he was told that but this board did not have guns and badges and did not run out an enforce things. He said the board makes decisions and they were passed to the Code Enforcement Office for enforcement. He said if the Code Office was remiss in its duties that was for other people to deal with, not this board.

Mr. Hutchison stated that Cornell has perfected a considerable number of permeable materials and it was conceivable that maybe what was in fact made of permeable material even though it looks like blacktop.

Chair May stated he was told that it was permeable but he did not follow through.

Mr. Friedman stated this was clearly on the part of the owner complaining about a self-created hardship. He said there was no basis for a self-created hardship for approval of this proposal. He said he would recommend that the board turn this down tonight and not delay this.

Mr. Patterson spoke about the sorority owning the place, the kids living there and additional finances that could make the carriage house look a lot better. He said he did not think that any student going to Hartwick College could not afford an extra \$100 dollars.

Ms. Powell stated that in regard to financial hardship the board also had to take into consideration what all these things were doing to the property values of the other homes.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 20

(New Business – 17 Maple Street) continued

Mr. Hutchison questioned if the board could recommend that lighting be set up in the garage and the junk be removed so it could be used for parking. He said it was stupid not to use it for parking as it was now but it is full of garbage.

Chair May stated that the public comment period was now ended.

Chair May stated that this board had limited powers in answer to some of the questions. He said if the board was going to issue a variance to allow something to occur it could put conditions on that variance. He said if the board was going to deny the application the board would simply deny the application and then enforcement of the condition of the structure goes to the Code Enforcement Office. He said the board could direct the Code Enforcement Office to inspect, which the board would do and they would come back with their opinion. He said there were not a lot of good tools in the city to force someone to take care of their property in a manner that they all think might be nice and one did not agree. He said it could be declared unsafe, posted and then it falls and he questioned if that accomplished the mission. He said probably not. He said there were other boards in the city that had more authority and more ability if they enact laws that require property maintenance at a certain level but they did have them especially for structures that were not habitable.

Chair May asked the board for their comments.

Commissioner Ficano stated he was against this.

Commissioner Lawson stated he was opposed to the demolition.

Commissioner Robinson stated if one reads Section 300-7J “the provision of new off-street parking for existing uses is prohibited” and he said this would create off-street parking.

Commissioner Rafter stated he was opposed to the demolition considering the points made about neglect and the long going set of findings of things that needed to be done. He said he thought it would be useful for all parties if there was an officer or someone to hear the message that by purchasing a property that there was a responsibility to take care of the property. He said if the sorority institution cared about its reputation that they should hear that and be present. He said if there were lurkers in his garage that was outrageous and if it were him he would take responsibility to his family and everyone in the neighborhood to take care of the matter. He said the reason the raccoons were there was because of invitation.

Commissioner Shields stated he was opposed.

Chair May stated that everyone has heard what the sense of the board was on this. He said he too was opposed. He said the board would try to take this one step further and have the Code Enforcement inspect the property of all the buildings and write up a list of violations. He said the board was going to expect the sorority or the owner of the building to respond to the Code Enforcement Office obtusely because it does seem like this is a case of benign neglect, it was a fine building at one time and could be again. He said it was not beyond repair and it would take some money but the owner has had 50 years to maintain that structure. He said the performance of maintenance was on the owner and it was also on the City of Oneonta and the Code Enforcement Office for not being more aggressive in the past.

Mr. Fox stated he would make more money fixing it than he would taking it down.

Chair May stated the purpose of this ending speech was to create a record. He said there was a motion and the City Clerk would send official correspondence to the Code Enforcement Office to ensure this happens.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 22

(New Business – 37 West End Avenue) continued

Forty-two (42) letters were sent out by the Clerk's Office to property owners residing within 200 feet radius of the property in question and no responses were received.

Mr. Rotolo stated he had been hired by this family, a single mother and her adult special needs daughter, to try to solve a problem in their existing home. He said they purchased the house in 2011 at 37 West End Avenue. He said it was a relatively small house and had a very small footprint inside and there was only one bathroom. He said they were trying to put an addition on the back of the house that would allow for more closet space, a half-bath and a small room in addition to the master bedroom that was there now. He said basically the problems that come into view were that the existing structure as positioned on the property was only 2' 6" from the adjacent property line. He said they were requesting to continue that straight line and increase it by 10' the length of the house and then turn it 90°. He said the back side of the property was a very large back yard and the adjacent lot was an empty lot. He said there was probably a good 150' from that house to the next property on that same block. He said he did not believe it was cause any problem to them as far as aesthetics. He said it would not change the front of the house. He said the mother was basically looking for more comfort for her and her daughter.

Commissioner Ficano stated it seemed like a good project to him.

Commissioner Lawson stated he had no questions or concerns.

Commissioner Geasey indicated she was for this.

Commissioner Robinson stated he visited the property recently and he had no problem with it.

Commissioner Rafter stated it was swell.

Commissioner Shields stated the project looked good.

Chair May asked if there was anyone in the audience to speak on this particular application.

Hearing none the Chair said in addition to an area variance this application required the review of a Short Environmental Assessment Form (EAF). He said the sense of the board was that the project was fine and looked like it was moving toward approval.

City Clerk Koury led the board in the review of the EAF.

Upon completion of the EAF review the Chair said the board determined a negative declaration and entertained a motion on the application.

MOTION, made by Commissioner Lawson and seconded by Commissioner Robinson, that based on site visits by members of the Zoning and Housing Board of Appeals and testimony heard at the June 25, 2012 meeting, the board declares a negative declaration on the Short Environmental Assessment Form (EAF), approves the application as presented by Joseph Rotolo for 37 West end Avenue and grants an area variance to extend the rear side of the house to create more room for an existing bedroom and a half bath, including a small deck and new entrance.

Voting Ayes: Chair May
Commissioner Ficano
Commissioner Lawson
Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Commissioner Robinson

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 24

(Old Business – 66 Church Street) continued

*Total density required is
5,000 square feet.*

300-101 *Parking Requirements by Use*

Multi-Family Dwellings:

*There are no existing
parking spaces at this
property & no
additional parking
spaces are
proposed.”*

*1.2 spaces are required per 1-
bedroom dwelling unit.*

*2 spaces are required per
dwelling unit with 2 or more
bedrooms.*

*Total parking spaces required
is 10.*

Mr. Joseph Pondolino, Attorney, stated he was in attendance with Mr. Jim Baldo, the owner of 66 Church Street, to resolve an issue and discuss the matter. He said he had submitted on behalf of Mr. Baldo an amended application, which he thought the previous did not have sufficient documentation and evidence to get a true picture of the situation. He said this was a piece of property all were familiar with of the former Italian Kitchen on Church Street. He said as a young man and growing up it was always a grocery store, then a restaurant and it had been that way ever since. He said the lot has not changed, the size remained the same and the off-street has been the same for 60 years. He said the tenants that were in there totally destroyed the place and there were pictures of that. He said it would be very expensive to bring it back up to a restaurant and his client did not want that. He said this as a restaurant required about 50 parking spaces for customers to come in and out during the day and night. He said it requires at least 8 off-street parking spaces for all the employees and wait staff. He said Mr. Baldo was proposing getting rid of the restaurant because it was just uneconomically to rebuild it as a restaurant. He said Mr. Baldo would like to create two 3-bedroom apartments with the parking limited to about 6 cars versus 58. He said that would reduce the density, the traffic problems and would enhance the neighborhood. He said there were already 2 apartments upstairs and one studio apartment. He said the place has been grandfathered for all these years for its lot size and was also grandfathered for no off-street parking. He said this would not in any way affect the character of the neighborhood and would only improve it. He said Mr. Baldo would also like to install a laundromat downstairs for use by the tenants. He said the apartments upstairs would be brought up to code. He said there was no ability to expect any type of a reasonable return with that property right now unless Mr. Baldo gets permission to put in the 2 new apartments. He said to replace the damage that was done would cost around \$60,000 or more and his client was already out about \$400,000 because of the mortgage foreclosure the restaurant people never paid. He said those people walked away after damaging the property. He said it was a tremendous loss. He said Mr. Baldo has paid back taxes of \$6,000-7,000 and was paying \$3,500 a month just in interest on the home equity loan he got to be able to finance those who filed bankruptcy and Mr. Baldo had no way to get his money back. He said Mr. Baldo was still paying all the utilities, etc without any income from this property. He said presently there was significant economic injury and certainly an inability to realize any reasonable return. He said in doing this there was the improvement of the character of the neighborhood as there were many apartments in the area besides single-families and it was falling in line with everything that was there. He said they respectfully ask the board to review the pictures and see the damage. He said included were copies of taxes paid and documentation to establish the four or five grounds that the board needs to be able to make a determination.

Commissioner Robinson stated he was concerned about parking. He said with the apartments would require 10 parking spaces and there were none.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 25

(Old Business – 66 Church Street) continued

Mr. Pondolfino stated that situation had been grandfathered for about 60 years. He said if the restaurant was to continue they would be looking at 50-58 off-street parking places. He said he thought it was a win-win not continuing this as a restaurant.

Commissioner Rafter stated he had no comments about it.

Commissioner Shields indicated he had no comments.

Commissioner Ficano stated correct him if he was wrong but had the plan changed at all in any details from the board's May meeting to this month.

Mr. Pondolfino stated no.

Commissioner Ficano stated he did not think it had. He said as a board the board had sent a message that it thought there was too much congestion adding 6 people and that maybe adding a lesser number of tenants to the 1st floor would be something the board would look at again and tabled the matter. He said he was a little confused because nothing had changed.

Chair May stated that there was a little better documentation submitted. He said it clearly would be a lesser impact than the restaurant would with parking. He questioned parking material when so much of the city was restricted in parking and the issue of parking was a conundrum in city.

Commissioner Robinson stated most of the parking on that street was 2-hours.

Commissioner Ficano stated that at the May meeting a resident pointed out that at least with the restaurant traffic customers did not stay overnight, which for area residents who wanted to leave the car on the street overnight did not have to compete with those of the restaurant.

Chair May stated that still did not solve the problem. He said right now there was a large outpouring of sentiment and did not want the old carriage house taken down on Maple Street to create parking but if one was required to have parking he questioned how it went in order to comply. He said that was a number that he did not know how to resolve.

Commissioner Ficano stated he did not know how to answer that. He said he took another look at this building and perhaps there was more there than meets the eye because it was long and got wider toward the back. He said but still packing 6 people into one floor could attract maybe not very picky tenants and those who may bother the neighbors. He said whereas if there were a little less people in these apartments, the apartments a little more spacious, a little more livable and maybe a little higher rent there would be a different kind of tenant. He said these were not the board's decisions but were observations. He said his opinion was that he would be more likely to go with the project if it had less impact on the neighborhood.

Commissioner Lawson stated he was not at the May meeting but from what he sees it seemed like this would result in less impact on the neighborhood. He said parking is always an issue. He said this was a unique property in the city and the city did not have a lot of neighborhood restaurants that were going to be converted into apartments. He said it was already a high density neighborhood but anyone who was there when the Italian Kitchen was open knew having only 6 cars there now would be an improvement. He said there was also nothing to say if the board denied it and it became a restaurant again that the times may be different from just evening hours and open at 6am for a breakfast crowd and going all day long. He questioned what the affect of that would be. He said he was in favor of the project.

Commissioner Geasey stated in the "Attachment To Application For Variances" submitted by Mr.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 26

(Old Business – 66 Church Street) continued

Baldo, #3 “Inability to Realize Reasonable Return:” it seemed incorrect saying “only be a need for 4 or 5 parking spaces for new tenants.” She said the total was 10 spaces.

Chair May stated the total for the whole building was 10 spaces but only 4-5 spaces were needed for the new apartments, not the existing apartments. He said and that was assuming all the tenants had a car, which they did not know.

Council Member Brzozowski stated there had been some reference to the 2-hour parking on Church Street and for what it was worth at the June meeting of the Facilities/Technology/Operations Committee that they declined to change the parking there from 2-hour. He said whether it was going to happen sometime in the future he did not know.

Chair May stated it would be nice if everybody had a lot of parking but they don't. He said the new Zoning Code precludes additional parking in R-1 and R-2 zones and when people propose to build parking lots in the city people were up in arms against that. He said he personally was confused on how to hold people to a standard if it was impossible to meet. He said the board could say to Mr. Baldo to buy the house next door and tear it down and make a parking lot but the board just got a lecture for about 45 minutes on how that should not occur. He said he tends to follow Commissioner Lawson's thoughts about this.

Commissioner Shields indicated the same.

Commissioner Rafter stated he agreed and he thought there were a lot of suppositions. He said this was a unique kind of property and questioned what the alternatives were. He said the fact was that something had to happen and people who don't own the property can't make criticism about it and parking was a problem. He said he sees nothing wrong with the 2-hour parking. He said he was in support of this.

Mr. Dave Hutchison, 2 Irving Place, stated last month the pews were filled with people that live in that area within 200' of this. He said it seemed to him the tenor was highly negative for this happening. He said when all is said and done he questioned if there would be 8, 9 or 10 new people who will most likely be students living there.

Commissioner Ficano stated there were presently apartments for 5 and Mr. Baldo wants to add apartments for 6 more.

Mr. Hutchison stated that really seemed like a horrendous overload. He said it would seem that this might be the place for an office building or something but probably could not get the rent that could be gotten from the students. He said it had always been pointed out that if you rent to 11 students one could guess how many people spend the night there, another 10. He said they were not really talking about 11 tenants but about 15 or 20 people in habitation there more or less, whether it was legal or illegal. He said he respected the people who came out to the meeting last time and he was very sorry but he did not know if this was publicized but he thought there was going to be a lot of very upset people.

Chair May stated all the upset people who were here last month were told this was going to come back this month.

Mr. Hutchison stated the message did not get out apparently. He said he did not think it was because they thought it was fine to have it happen. He said he did not think these people's opinions changed in the last 4 weeks.

Chair May stated Mr. Hutchison was suggesting that the board tell this applicant that he should make an office building rather than what he wants to do but the board does not own the property and had

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 27

(Old Business – 66 Church Street) continued

no control over that.

Mr. Hutchison stated no he was saying the number of students in this small space was in his opinion exorbitant.

Chair May asked if Mr. Hutchison had looked at the drawings.

Mr. Hutchison replied no.

Chair May asked if he would like to.

Mr. Hutchison replied sure.

Chair May stated the space was not small, it was more than adequate, Mr. Baldo satisfies all city codes and he had a professional engineer do his design for him. He said Mr. Baldo was going to bring the building up to the highest code the city has.

Mr. Hutchison stated he was just speaking to the number of inhabitants of that age group that were going to be there.

Chair May stated if there had not been an R-4 Zone, which was the highest density zone in the city, he questioned where Mr. Hutchison suggests that they go, whoever rents it. He said if someone comes in and finds the conditions untenable or the parking untenable they probably would not rent from Mr. Baldo. He said he did not know how to balance the question Mr. Hutchison put on the table and he asked that he give some direction on how he would deal with these competing interests.

Commissioner Ficano suggested less people in the first floor.

Chair May stated Mr. Baldo did not apply for less people in the first floor.

Commissioner Rafter stated they have heard a lot about the assumptions and the worst things they heard were a litany of terrible things that were about to happen in the carriage house and there will still be students here and unhappy folks but this was not vacant and falling down.

Commissioner Ficano stated he did not know what happened between last month and this month because everyone seemed to have changed their mind.

Commissioners Robinson and Geasey responded they had not.

Chair May stated if they were offering something else he was all ears. He said he would love to find magical solutions to these things. He asked Mr. Baldo if he owned any other property in the immediate area where he could provide parking to offset this parking problem.

Mr. Baldo stated he owned the Clinton Plaza and would be happy to tell these people they could go park in Clinton Plaza. He questioned if that was realistic and think if people would walk from the Clinton Plaza back to Maple but he could certainly offer that. He said he did not own any other property closer.

Chair May asked if there were any neighbors that had property closer he might enter into a lease arrangement with for the parking.

Mr. Baldo replied if there was something available he would be thrilled to.

Chair May stated when the Italian Kitchen was there he and others used the Center Street

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 28

(Old Business – 66 Church Street) continued

School lot.

Commissioner Geasey stated she was concerned about setting a precedent here.

Chair May stated the board was setting no precedent. He said this was a unique property and to set a precedent there would have to be a similar situation.

Commissioner Geasey stated not for this property but that the board was giving the okay when they know there was no parking space. She said the people on Walnut already complained that people around the corner from Church, without the additional building, take up all the spaces in front of their homes because in the past the board has said yes to all these variances for people having their rentals or additional students or whatever it was that created the parking problem. She said so now they were doing the same thing and shoving them around the corner knowing there were 2-hour parking limits. She said she would feel even a hair better if she knew that was somehow changing if this went through. She said she feels like she's pushing cars around center city.

Chair May stated that was typically what a city does.

Commissioner Geasey stated she knew that but questioned when they were going to stop.

Chair May responded when the city decides it was in its best interest to put a separate deck on East Street, a deck on Main Street or parking stickers. He said there were a lot of unique solutions he had seen put into affect in many cities but this board did not have that ability and can't make more parking. He said he thought the 2-hour limit made some sense that if people wanted to rent there under the conditions they knew their car had to be moved or ticketed or towed. He said some people may not have a car.

Chair May asked if any of the units being put in were handicapped accessible.

Mr. Baldo replied 2 apartments on the 1st floor were.

Chair May asked if there were handicapped accessible bathrooms to meet all the Americans With Disabilities (ADA) requirements.

Mr. Baldo replied absolutely.

Chair May stated so there was an absolute real possibility that the 1st floor apartments will not be filled with people with cars and would be relying on public transportation. He said he thought that was something worthy of consideration for Commissioners Ficano and Geasey.

Commissioner Ficano questioned if the Chair was assuming a wheelchair bound person would not.

Chair May responded not necessarily wheelchair bound but people who might not be able to drive who require a handicapped accessible apartment which were at a premium in the city. He said there was only one other building that he could recall in his term on this board that has that was Sampson's Floors building on Elm Street. He said it seemed to have worked for them.

Commissioner Geasey questioned if the apartments would be advertised as handicapped accessible.

Mr. Baldo stated he never gave it thought. He said he was changing the front entrance and it would be on the side where the dumpsters used to be.

Chair May stated Mr. Baldo could not only rent to handicapped tenants but could let them know that they were available. He said as it was he was not opposed to this.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 29

(Old Business – 66 Church Street) continued

Commissioner Ficano stated he was sure this would be well-done and well constructed with the reputation of the owner but he was thinking it was not so big of a building and questioned the square footage.

Chair May stated the setbacks and density requirements were high, everything in there was newly constructed so it must meet current codes and the bedrooms must be of legal size. He asked if a sprinkler was being installed.

Mr. Baldo replied yes on the 1st floor and the 3rd floor would require a new fire escape.

Chair May stated he was not there to design the project but Mr. Baldo had an engineer and questioned including that if he was putting in a wet system. He said the board was trying to help Mr. Baldo and he needed to think about that. He said the board wanted it as safe as it could be. He said there would be an uproar in the neighborhood and he was surprised they were not here. He said they were all put on notice last month that this would be happening this month. He said it was on the city website.

Mr. Hutchison stated obviously they did not know. He said he did not know why letters were not sent out again.

Mr. Hutchison stated he came because of the other issue and was surprised to see what was on the agenda. He said he did not think anybody was aware of it and thought there might be a bit of flack about it.

Chair May questioned if Mr. Hutchison was saying that they were not aware that this was going to be on the board's agenda this month.

Mr. Hutchison responded he was saying that, yes.

Chair May stated he had said that out loud last month.

Mr. Hutchison stated he was not arguing with the fact that it was said.

City Clerk Koury stated normally he did not send notices again for tabled items. He said he had not done that as standard practice unless specifically requested for the 20 years he had been employed by the city.

Commissioner Ficano stated he would have to go back to the minutes. He said he would admit he did not read that.

City Clerk Koury stated the notice was out by being on the website and the board and Council got the agenda.

Chair May questioned how the people could not know it.

Mr. Hutchison responded it was mentioned at the meeting but he was not sure it was happening this date.

Chair May questioned what Mr. Hutchison might suggest.

Mr. Hutchison responded he would almost think the board might want to table it and get a group here to complain and get their opinion.

City Clerk Koury stated in all honesty that may be what the board may want to do.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 30

(Old Business – 66 Church Street) continued

Mr. Baldo stated he had a lawyer here who may be able to clear up the legal notice. He said he honestly knew it was happening because at the May meeting the Chair said the board would table this for its June meeting and he specifically asked when and he said the end of June. He said to listen to what was going on now and this gentleman who he had no idea who he was and listen to everyone speak when he was trying to improve a building that was like the carriage house, it was falling down. He said 10 minutes ago no one wanted the carriage house to be torn down but yet in this situation you want to leave a restaurant there because some neighbor made a complaint. He said there were hundreds or thousands of dollars at stake here and he was not worried about a complaining neighbor but was worrying about the best thing for obviously him and for the look of the area. He said the board was asking him to make it less dense but it did not work because he could put in three 2-bedroom apartments and still end up with the same number of people. He said he never thought about making it handicapped accessible and thanked the board for the idea because that would help out and he would advertise it that way. He said it is incorrect to think putting a restaurant in there would create or solve the parking situation. He said there were at least 8 people minimum who run the restaurant and there would be 50 cars or more running in and out all day long. He said Commissioner Ficano made a good point about what if somebody opens there who says they would open at 6am for breakfast and close at 2am and have a liquor license. He said that was not going to help any of them. He said he did not understand the issue. He said yes the people were not here but one was certainly here.

Mr. Hutchison stated he was not here because of this. He said he came for another reason.

Mr. Baldo stated they all heard it but obviously it was not that big of a deal for them to come back. He said it was big enough of a deal for him to come back and have Mr. Pondolfino come and explain the situation better than he could as he gets too emotional as he was right now so he would shut up.

Commissioner Robinson stated to be honest last month the board did say it was tabling this for a month.

Commissioner Ficano stated he stands corrected.

Commissioner Robinson stated he was opposed to the parking situation.

Chair May stated he was opposed to the parking situation as well but just did not know how to resolve it. He questioned if they shut down every building in the city that cannot provide the required parking and if so they would have a pretty empty city.

Commissioner Geasey stated only during the school year it was a problem because there was no problem right now. She said for 3 months the place was dead and everybody has plenty of parking. She said it was the school year. She wondered if there were 6 handicapped people who rent the apartments there if they could appeal to the city to get that parking changed again because there could be handicapped parking spots. She said it changes everything for her to think those spaces would be used by only handicapped people. She said she thought it behooves Mr. Baldo monetarily to pursue that avenue.

Chair May stated he concurred. He said it was just a need he had personally observed in the city that there was very little attention to fill.

Chair May stated clearly one of the most vocal people at last month's meeting by his recollection was Council Member Lynch. He was certainly aware of the meeting and he would have certainly notified the neighborhood.

Commissioner Geasey stated to be fair they could have all gone on the website and the minutes were there.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 31

(Old Business – 66 Church Street) continued

Chair May questioned to what extent did they follow aside from knocking on every door.

Commissioner Geasey wondered if legally as a board they would have a problem.

Chair May stated the board had no problem.

Commissioner Ficano stated the board makes up its own mind and would not be completely swayed by the audience.

City Clerk Koury stated he was saying that it has been past practice not to send notices on tabled items.

The board held a brief discussion on what was written in the May minutes.

Chair May stated he thought the board discussed the issue at length. He said he needed the sense of the board to look at the EAF or not. He said he believed Mr. Baldo was agreeing to make sure the building was sprinkled from top to bottom and was agreeing to have handicapped apartments on the 1st floor parking as a condition of receiving this variance. He said that was his understanding and asked if he was hearing anything from Mr. Baldo or his attorney Mr. Pondolfino.

Mr. Pondolfino stated that was correct.

Commissioner Geasey stated she thought that information would have been meaningful to the people who were at the last meeting.

Chair May stated it would certainly be in the minutes and it would be part of the motion.

Code Enforcement Officer Chiappisi stated that the bathrooms do not appear to be handicapped accessible.

Chair May stated once the variance was issued the instructions will be there and they will be. He said that was going to be part and parcel of the motion for the newly constructed apartments on the 1st floor.

Mr. Baldo stated but it did not mean he had to rent it that way.

Chair May stated no he did not.

Chair May stated he thought the board go as much as it could get. He said the board can't make parking that doesn't exist. He said Mr. Baldo agreed the sprinkler system would go through the building. He said he will have ADA apartments on the first floor hopefully attracting handicapped, which the board cannot mandate but strongly encourage that it be marketed as handicapped accessible units.

Chair May asked the commissioners if they had been persuaded or not.

Commissioners Ficano and Robinson replied no.

Commissioners Lawson, Geasey, Shields and Rafter replied yes.

Chair May stated the board would move to the Short Environmental Form (EAF).

City Clerk Koury led the board in the review of the EAF.

ONEONTA, NEW YORK - JUNE 25, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 32

(Old Business – 66 Church Street) continued

Upon completion of the EAF review the Chair said the board determined a negative declaration and entertained a motion on the application.

MOTION, made by Commissioner Shields and seconded by Commissioner Lawson, that based on site visits by members of the Zoning and Housing Board of Appeals and testimony heard at the June 25, 2012 meeting, the board declares a negative declaration on the Short Environmental Form, approves the Site Plan Review and grants an area variance for density to Mr. James Baldo for 66 Church Street to convert the 1st floor business into two (2) dwelling units with three (3) bedrooms each with the stipulation that a sprinkler system would go through the building and will have Americans With Disabilities (ADA) compliant apartments on the 1st floor and strongly encourages that it be marketed as handicapped accessible units.

Voting Ayes: Chair May
Commissioner Lawson
Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Noes: Commissioner Ficano
Commissioner Robinson
Absent: None

MOTION CARRIED

Voting followed this discussion.

Chair May asked if there was any other conversation on the board, any comment from the Code Enforcement Office or any comments from the audience.

Hearing none the Chair asked the Clerk to call the roll.

There being no further business to come before the board, Chair May adjourned the regular meeting at approximately 9:30 p.m.

JAMES R. KOURY, City Clerk

JRK/pab