

**ONEONTA, NEW YORK - MAY 21, 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 Karen Geasey  
Commissioner Louis Shields  
Commissioner John Rafter  
Commissioner Paul Robinson  
Council Member Bob Brzozowski  
**ABSENT:** Commissioner Robert Lawson

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

**PETITIONERS**

Chair May asked if there were any petitioners who wished to speak to any business other than what was listed on the agenda.

Hearing none the Chair moved to correspondence.

**CORRESPONDENCE**

City Clerk Koury gave a brief summary on the following correspondence that has been entered as written:

•The following was received from Elaine Nahman, 144 Herrick Hill Road, Oneonta, dated May 20, 2012:

*“TO: Jim Koury  
Zoning & Housing Board of Appeals*

*Re: Variances for 66 Church Street*

*We are totally puzzled as to how things have reached this point. Mr. Imperato and his partners are not asking for an adjustment of Zoning Code to make some minor changes in a property but are expecting the City to totally disregard the regulations and limitations that have been established in the Code and permit them to do whatever they please to maximize their potential student rental income.*

*To expect approval for density that is less than half of the size stipulated in the Code and to supply zero parking spaces when Code requires 10 spaces is preposterous. Parking is and has been a nightmare in this Church Street area for the 21 years we have owned 61 Church Street. And that is a situation that exists despite other houses in the near radius having some or all of the parking spaces needed for their tenants/residents. Now you are being asked to consider a request to add up to ten more vehicles in this vehicle dense area.*

*Work has been going on at that dwelling for months and it is obvious from changes which can be seen from the outside that major adjustments have been made in the entire upstairs. To my knowledge no building permit has been issued (since none is posted on the building). To my way of thinking you are dealing with property owners that have a blatant disregard of regulations and feels it's easier to get forgiveness than to get permission.*

*We have been in that building many, many times when it was a restaurant and cannot fathom how two three bedroom apartments can fit in the downstairs space and offer adequate living space for six people. Students are not 2<sup>nd</sup> class citizens but this construction seems to have been devised to squeeze as many bodies as possible into the small amount of space this premises will allow...legal or not. There are reasons why the City developed a Zoning and Housing Code and why the Code should be followed.*

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**(Correspondence)** continued

*There is no front yard, side yard or back yard. As long as weather permits these student residents will be congregating on the sidewalk or having their beer bong game on Church Street. Our five family house directly across the street houses hard working people. A goodly proportion of the houses at this end of Church Street are non-student rentals. It's not fair to alter the makeup of a residential area so drastically by permitting such heavy density occupancy and to violate existing regulations with the end result affecting quality of life.*

*Financial hardship shouldn't enter into this, if it's brought up. The building owner bought a restaurant several years ago from the original Italian Kitchen. There was another change in restaurant management and this last arrangement had to be terminated. It was for sale as a restaurant and obviously a satisfactory offer wasn't made. He then came up with a great idea to do whatever he wanted in order to maximize his income though the proposal is totally in violation of the rules and regulations established by the Oneonta Zoning and Housing Board.*

*I urge you to turn down this request and not permit Mr. Imperato or anyone else connected with this property to continue with this project as currently outlined. Thank you.*

*Sincerely,"*

•The following was received from Alice Siegfried, 67 Church Street, Oneonta, dated May 18, 2012:

*"Zoning and Housing Board of Appeals  
City Hall*

*Dear Board Members:*

*This letter refers to the code variances requested for 66 Church Street. The above-code-size sign advertising the 2 3-bedroom apartments proposed has already irritated me. And now work has begun without approval.*

*At first I thought it impossible for these first-floor apartments to be built since the whole complex is non-compliant with the 10 required parking spaces vs. 0 and the required lot size of 5000 sq. ft. vs. 2048 sq. ft. But with grandfathering and scoff code laws, this may happen. I ask why the desire for high rent from students trumps the quality of a center city neighborhood. Is this a case of financial hardship on the part of the owner?*

*Sincerely,"*

**PUBLIC HEARING ON REQUESTED VARIANCES**

The Notice of Public Hearing on the following request was duly published in The Daily Star on Wednesday, May 16, 2012. Affidavit as to proof of publication is attached hereto:

- 1. John Imperato Jr. is requesting an area variance, use variance, code interpretation, functional family determination, short environmental assessment form, site plan review, sketch plan conference and special extension of a non-conforming use in order to convert the 1<sup>st</sup> floor business at 66 Church Street, Oneonta, New York into two (2) dwelling units with three (3) bedrooms each.*
- 2. Chris Wilson is requesting an area variance for parking, short environmental assessment form, site plan review and sketch plan conference in order to build a garage at 41 Woodside Avenue, Oneonta, New York and to enlarge the existing parking area. The parking area will be covered with an impervious surface.*



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(53 Market Street – Memorandum) continued

*Such signs shall not exceed 12 square feet in size per side.*

*The proposed sign will be approximately 33 square feet.*

*The highest point of such signs shall not exceed four feet above grade.*

*The proposed sign will be approximately 14 feet 4 inches above grade at its highest point.”*

Twenty-three (23) 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. Patrick Doyle, Rapp Signs, Inc., 3979 NY Route 206, Greene, and Mr. Keith May of Sidney Federal Credit Union introduced themselves.

Chair May stated there was no relationship between Mr. Keith May and himself.

Mr. Doyle stated they would like to change the signs at the Credit Union because there has been a logo change and update of existing signs going on. He said the city has already issued them a permit to change the signs around the building and the question was the size of the replacement of the freestanding sign in the front. He said he had some photographs showing the property on Market Street and the existing sign and in the packet was a photo of the replacement sign. He said the new sign was 4’.1” x 8’ and it was at 14’.4” overall height which gave an 8’ clearance at the bottom of the sign so there would not be any blockage in visibility of traffic. He said the sign was internally illuminated. He said the background on the sign was a charcoal grey, almost black, which is opaque and the small letters “sfcu” were 14” high. He said there were other signs in the neighborhood similar in size and some were actually larger. He said the Key Bank sign was 7’ x 8’ and about 15’ to the bottom and the Stella Luna sign was a little over 3’ high and 7’ long and about 14’ to the bottom.

Commissioner Robinson stated he thought this sign was an improvement. He said the existing sign was solid and people could not see through it who were driving in and out of the lot.

Commissioner Rafter stated his comments were positive and he had no questions.

Commissioner Shields stated he thought the sign logo was very fashionable.

Commissioner Ficano questioned if the sign would be illuminated 24 hours.

Mr. Keith May responded correct otherwise the logo itself would not show without being internally lit.

Chair May stated he thought it was a fine sign and meets the spirit of the city’s sign code. He said hearing no further comments he would entertain a motion to approve.

**MOTION**, made by Commissioner Robinson and seconded by Commissioner Shields, that based on site visits by members of the Zoning and Housing Board of Appeals and testimony heard at the May 21, 2012 meeting, the board approves the application and grants an area variance to Rapp Signs, Inc. for a freestanding sign approximately 33 square feet and approximately 14 feet 4 inches above grade at its highest point for Sidney Federal Credit Union at 53 Market Street (300.31-1-37.42).

**Voting Ayes:** Chair May  
Commissioner Ficano



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**(New Business – 41 Woodside Avenue)** continued

SUV's and other things nowadays a 20' x 20's was not large enough. He said he wanted a garage he could work in and not just park a car. He said the parking variance was basically because he moved the garage back on his property and centered it so he would not bother his immediate neighbors. He said basically he was going from where his driveway stops now to the entrance of the garage.

Commissioner Robinson stated he looked this over and saw there were several trees that would need to be removed.

Mr. Wilson responded there were above 5 small trees that need to be removed. He said the neighbors were actually happy about that because then they would get more sunlight over there on their plants.

Commissioner Shields stated he thought it was a good project.

Commissioner Ficano stated he thought it was a good project as well but they needed to talk about extending the driveway to get to the garage and the non-permeable surface and how the runoff would be dealt with.

Chair May stated that the board would be discussing the area variance, Short EAF and Site Plan Review.

Mr. Wilson stated about the runoff he said he was only installing about 20' of blacktop from where his driveway presently stops to where the garage would start. He said he was centering the garage behind his house.

Commissioner Ficano questioned if the water currently ran down the driveway and into the street.

Mr. Wilson responded yes when there was a heavy rain and there was water coming off the roof of the house. He said there was a storm drain right in front of the house.

Mr. David Shearer, 30 Woodside Avenue, stated he had concerns before talking to Mr. Wilson before the meeting about runoff. He said he thought the size of the impervious surface he was installing was small enough and would not make concerns for him.

Chair May stated the city's concern was to minimum water runoff and the board tried to encourage applicants to put in a permeable paving material and he asked Mr. Wilson if that was something he was willing to consider.

Mr. Wilson replied sure, he did not know there was such a thing.

Chair May stated there were and pavers could be used to accomplish that or porous concrete but it was not the board's job to design that project. He said there was a lot of pervious material available today for parking lots. He said in this case he did not think it was an end all be all because it was a relatively small area and there was a culvert at the bottom of the driveway to contain the water there. He said they were trying to control the amount of water going into the city stormwater system.

Chair May stated the board would be making a decision on the drawings Mr. Wilson had submitted. He said that meant the board was not codifying Mr. Wilson's property lines and/or boundaries where he was putting things. He said the board was assuming they were correct but if they were not correct Mr. Wilson could have a problem with a neighbor later on.

Chair May asked if any board member had any comments about the Site Plan as presented.



(New Business – 66 Church Street – Memorandum) continued

**PROPOSAL:** *The applicant wishes to convert the 1<sup>st</sup> floor business into two (2) dwelling units with three (3) bedrooms each. There are two (2) existing apartments with two (2) bedrooms and one (1) existing studio apartment on the 2<sup>nd</sup> floor of this building.*

**Please Note:** *This property is a registered residential rental property. This property does not have a valid Certificate of Substantial Compliance. A current requirement schedule is attached.*

<i>TABLE</i>	<i>CODE REQUIREMENTS</i>	<i>EXISTING / PROPOSED</i>
<i>300-96 R-4 Bulk and Use Table</i>	<i>Multi-Family Dwellings:  Minimum lot size is 1,000 square feet per dwelling unit.  Total density required is 5,000 square feet.</i>	<i>The existing lot size is approximately 2,048 square feet.</i>
<i>300-101 Parking Requirements by Use</i>	<i>Multi-Family Dwellings:  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.</i>	<i>There are no existing parking spaces at this property &amp; no additional parking spaces are proposed.”</i>

Sixty-one (61) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and two (2) responses were received and entered under correspondence.

Mr. James Baldo, 7A Clinton Plaza, Oneonta stated as stated in the application 66 Church Street was a commercial entity and then a restaurant/market for the last 40+ years. He said he had the misfortune of acquiring the building a few years ago and then he actually took the building over last November. He said the building was in terrible disrepair and in the front apartment the floors were caving in. He said the first thing he did when he finally evicted and foreclosed the people who were operating the Italian Kitchen was put on a new roof and now he was in the process of bringing the building up to city codes. He said after speaking with Code Enforcement Officer Chiappisi after starting this project back in January he finally came to the conclusion with engineer Jim Forbes that the other unfortunate thing he had to do for this building in order for these apartments to be installed downstairs was to install a sprinkler system. He said that affected him about \$15,000 worth but was prepared to do that because he needed the building to be safe. He said when the restaurant was downstairs and even though he was part owner then he was never really comfortable with it because there were people upstairs and kids sleeping. He said that’s been addressed and all of the smoke detectors were interconnected. He said he would like to put 2 3-bedroom apartments downstairs to maximize the return on the building. He said he had over \$500,000 in the building and the building was probably worth half of that if he was lucky and this was one of the ways he could try to recoup some of his unwanted investment. He said that was his reason for coming before the board to try and get a variance so he could put 2 3-bedroom apartments downstairs. He said the apartments will house 3 students in each.

Chair May asked Mr. Baldo what he was doing on the third floor.

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**(New Business – 66 Church Street)** continued

Mr. Baldo replied cleaning, fixing, repairing and making it livable so that more than dogs and cats would want to live in it. He said he was updating it and bringing it up to Code. He said one of the last hurdles that had to be jumped upstairs was the center apartment which has an upstairs to it and he was trying to work out with Code Enforcement Officer Chiappisi as to what works for the city as far as a fire escape. He said there was a ladder there which obviously had been there for 40 years and was not to Code.

Chair May questioned if the sprinkler system would be extended to cover that floor as well.

Mr. Baldo responded no, that floor was not changed according to what he understands from speaking to Code Enforcement Officer Chiappisi and that floor was grandfathered. He said he had to have it downstairs because of the usage change.

Commissioner Robinson stated he had a hard time with the parking situation. He said he watched the activity on Church and Washington Streets of the people who lived there and a lady came out pretty close to Church Street carrying to big bags of return bottles and had to carry them all the way to the other end of Washington Street to where her car was. He said it just seemed like there were too many cars there already. He said the board would be making a bad situation worse by approving this application.

Commissioner Ficano stated he also had an issue with the parking. He said he appreciated the tough situation Mr. Baldo was in and apparently it was alluded to in his application that the former restaurant owners were his business partners or co-owners.

Mr. Baldo stated that they were the owners of record and he was the one that trusted and believed in people. He said it was not funny because there was \$500,000 invested in that building. He said he could leave a restaurant there and there would be 50 cars coming and going all day long, which was not the best use of that building and not the best use of the area. He said the people who were running the business, the way that it went down when they struck a deal was that he was to be the bank for 90 days and they were going to pay him back. He said it took him 3 years to evict them and the reason why they were 20 percent owners of the restaurant was they still owed him \$185,000 for the rehab of the restaurant and that was not part of the \$500,000 he mentioned. He said so to sit here and to worry about a woman who was carry bottles to the end of the street, he did that all day long because there was no parking in the city of Oneonta. He said it just was what it was and he cannot fix that. He said he was trying to take an eyesore that was a fire trap and an absolute piece of “crap” when he took it over and there was one next door, the white house, which should be torn down because that was even worse. He said he was trying to make it better and try to get some of his investment back that he never wanted to be invested in. He said he had 2 people who wanted to open a restaurant downstairs but he did not want to put a restaurant downstairs. He said he did not want to be a landlord who would open up a restaurant and have trash removal problems. He said the first thing he did was pull out the dumpsters because they were disgusting, the boiler that was sitting there is gone and he was siding the building to try to make it look like a nice property that one would want their child to live in. He said he had granite countertops, new appliances and a new bathroom. He questioned where it stops and he knew there was a parking issue there that he could not fix.

Commissioner Ficano stated he said they were sympathetic but it was not the role of this board to fix businesses.

Mr. Baldo stated the role of this board was to use the gray matter and if he was using his gray matter he would rather have 6 cars parked there than 50 cars because that was what was parked there as a restaurant. He said when the Italian Kitchen was there the city made tons of money ticketing cars. He said he as a business owner was angry at that because again he was trying to promote commerce

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**(New Business – 66 Church Street)** continued

but cars were ticketed for a restaurant or for business owners that to him made no sense but that was beside the point. He said in his mind he thought the city was ahead of the game by not having 50 cars coming and going and jockeying all night long. He said a lot of cars went over to Center Street School to park although that does not matter now that the school was closing. He questioned what the city would rather have, 6 or 50 cars. He said the assumption was being made that each kid had a car.

Commissioner Geasey stated in the materials the board received from Code Enforcement it said this property did not have a valid Certificate of Substantial Compliance and she questioned if that was about some of the conditions Mr. Baldo described.

Code Enforcement Officer Chiappisi responded yes, that property has been out of compliance for maybe 10 or 12 years. He said there has been outstanding electrical violations from at least 2003. He said the fact that Mr. Baldo did not have a COC should not necessarily affect this application because he was trying to fix them.

Chair May stated that Mr. Baldo would have to bring the property into compliance fully before a COC would be issued for the building to be occupied.

Commissioner Geasey stated she would like to see more housing going in but there was no parking for the people that live there now and she could not fathom where they were all going to go. She said she did not see the comparison of a restaurant or residence because for a restaurant parking was for only about an hour and that was different from 10 people needing to park their car for 15 hours of the day. She said parking was her problem with the application.

Commissioner Robinson stated there was parking for the restaurant because on the opposite side of the street quite a ways down was 2-hour parking.

Chair May asked Mr. Baldo if he owned any other property in the immediate vicinity where he could offer parking for this project.

Mr. Baldo replied he owned Clinton Plaza and he offered parking there. He said whenever the city has events going on or repairing the city parking lot his lot was full of cars of people not going to the Plaza and going elsewhere. He said he refrained from towing the cars because they knew what was going on when the parking garage was being repaired. He said it happened all day long. He said that was the only place he had. He said he did know that the person across the street at 65 or 67 Church wanted to make parking in his back yard and rent it out to students. He said he did not know if that was happening or not.

Chair May stated the board's goal was to issue variances for the least obtrusive thing they could find. He said if parking could be found in and around Mr. Baldo's property or somewhere else in the city that could be dedicated to these 6 cars it certainly made the application more appealing. He said the board understood Mr. Baldo could not police where his tenants parked but it would be beneficial if he had parking for them somewhere in the city.

Mr. Baldo stated right now there was plenty of parking on Church and Washington Streets because the students were gone. He said those were the college kids that they all depend on for the livelihood of this community. He said the city needs them and the assumption was being made that 6 more beds downstairs in this building brings 6 more cars, which it may or it may not.

Chair May stated he for one was making no assumptions.

Council Member Brzozowski questioned why the contractor John Imperato Jr. was making the application for the variance.

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**(New Business – 66 Church Street)** continued

Mr. Baldo responded he did not know why Mr. Imperato put his name on the application instead of his.

Council Member Brzozowski questioned if the third floor was a potential apartment.

Mr. Baldo responded no that was part of the second floor. He said the middle apartment on the second floor had its bedroom on the third floor. He said it needed corrected fire escapes in the event of a fire. He said he would rather have apartments downstairs than a restaurant which works with gas and open flames all day long.

Council Member Michael Lynch, 4<sup>th</sup> Ward, stated 66 Church was located in his ward and he had a number of concerns about Mr. Baldo's proposed use. He said there were a number of persons in this room that worked on the comprehensive Zoning Code changes in 2011 and the ink was barely dry on that. He said when it came to the center city one of the things that group tried to do was maintain a balance and to encourage more single and two-family houses. He said it seemed to him that this use flies in the face of that. He said he did not think it was a matter of this property being a student rental as it was proposed to be or a restaurant. He said this property was situated in a sliver that was zoned R-4 Transitional Residential and there was a list of uses it could be used for, some requiring parking on their site and that was the purpose of the Code. He said he represents a lot of people who live on Church Street, some were in the audience, and some of them have been putting up with the parking situation for some time and frankly he disagreed that there has ever been 50 cars parked on Church Street when the Italian Kitchen was in place. He said he thought having permanent residents with cars and friends with cars was going to have a significant impact on an already congested block. He said he also wanted to mention when the Council acted a few years ago on a proposed Special Use Permit for a transient rental property on Church Street the basis for the denial was parking on Church Street. He said that happened with a property that had off-street parking put the Council was concerned about additional parking and people. He said that landlord challenged the Council's decision and brought the city to court and the Council's decision was sustained and parking was upheld as a rational basis to deny the permit. He said he thought the Code had to mean something and in this case there was an area variance at hand where there was a drastic deviation between the area required for what Mr. Baldo was proposing and the area that he had. He said the area requires around 4000 square feet and the area Mr. Baldo had was around 2900 square feet. He said in the strongest possible terms he opposed the issuance of a variance.

Mr. Jeff Copelan, 30 Center Street, stated he was strongly opposed to this, not just for parking but it was having 6 more students on a property with no yard and they will be out in the street. He said there was already going to be 5 upstairs. He said he was talking about 6 parking spots but there was supposed to be 10. He said next door to it was another house that was a real dump and hardly ever rented because of the bad condition but there was zero parking. He said on the other side was another house with zero parking. He said there was a house on the other side with one parking spot with 4 students living there. He said he thought the board needed to take into account what was around this property, which were student houses with inadequate parking already. He said nobody benefits from this except the owner getting himself out of a very bad situation that he got himself into. He said he did not see any advantage to the city. He said when the restaurant was there it was not a continuous thing because it was opened from 4:00 pm. to 10:00 p.m. He said Mr. Baldo had said 2 people wanted to open a restaurant there. He said it seemed like Mr. Baldo had an opportunity he passed up because he did not think it was profitable enough and be too much trouble. He said the restaurant would have been grandfathered in and he could have made the building nice too.

Mr. Fred Morse, 54 Church Street, stated there were 22 dwellings on the 2 sides of Church Street between Walnut and Center Streets. He said 8 were owner-occupied and 14 were rentals. He said of the 14 rentals 10 were student rentals and 7 of the 10 did not have anywhere near enough parking for the number of students they had. He said the parking situation was already critical before even considering this project. He said he thought it should be denied based on the parking situation.

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**(New Business – 66 Church Street)** continued

Ms. Alice Siegfried, 67 Church Street, stated there was 2-hour parking in front of her house. She said she really felt this was changing the nature of the neighborhood. She said the sign, which was too big, at this property says there were 3-bedroom apartments and it was not approved yet. She said she felt these code laws were just being scofflaws.

Mr. Tom Tighe, 61 Church Street, stated parking was the big problem but when the restaurant was there he did not find it much of a problem because people were coming and going. He said he had 5 units there and he tried to find people that did not drive or were there on weekends. He said it did not seem to make sense to put more cars there. He said Mr. Baldo made really good improvements there and understands what he was trying to do and get his money back. He said he did not think it was good to put 10 more cars and 10 more kids in there.

Ms. Cecelia Zapata, 5 Walnut Street, stated she just wanted to support the people who spoke and say she agreed with all of them.

Ms. Georgia Basdekis, 9 Walnut Street, stated she lived next door to 7 Walnut Street that had more than enough people living there and last year no one lived there but there was not even one parking space from Dietz to Church Street. She said all the traffic goes up Church Street. She said the other day at 5p.m. when she walked on Church Street there were 7 students in front of their house lowering their pants and mooning people as the cars went by. She said that was not acceptable. She said she lived in the City of Oneonta and wanted it to be a city, not an animal-party place.

A petitioner said it was not just parking, there were other things that did not meet requirements with this and it did not have the setback. He said he did not see any use there that would not be detrimental other than a restaurant.

Commissioner Ficano questioned if the property had lost its grandfather clause.

Code Enforcement Officer Chiappisi responded a restaurant or multi-family dwelling were approved uses. He said there was no grandfathering.

Commissioner Ficano stated he thought the board was between a rock and a hard place because he recognized that Mr. Baldo had done a lot of good things for the city and his investment in the Plaza. He said he understands this property was likely not going to be a restaurant and would be this empty space. He said he was sympathetic but he could not in good conscience support this project the way it was. He said maybe some good would come of this. He said he did not like it and would not vote for it.

Commissioner Geasey stated she did not see a solution to the parking and the lot size. She said with the way it was presented she could not vote for it.

Commissioner Robinson stated he would have to echo what the commissioners said because the quality of life for the people who have this in their area would be affected by the students. He said he would not vote for it.

Commissioner Rafter stated he thought there was a dilemma and he did not have a solution. He said the owner of the property had a problem and without approval he wondered what the other options would be. He said presently the property was in disrepair, there were already 2 or 3 abandoned buildings in the area and he did not think anyone's interest would be served by having yet another one. He said there was the question of what could be done in some ways that were yet to be seen. He said he thought the idea of that particular building was problematic for the neighborhood one way or the other and the board was not going to be able to resolve it. He said as far as students being



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(New Business – 65-67 Maple Street – Memorandum) continued

**ZONING DISTRICT:** *R-2 Moderate Density Residential District*  
**APPLICANT(S):** *William Lunn (owner)*  
**APPLICATION TYPE(S):** *Area Variance - Parking*  
*Special Extension of a Non-Conforming Use*  
*Short Environmental Assessment Form*

**PROPOSAL:** *The applicant wishes to increase the number of bedrooms in the 1<sup>st</sup> floor apartment from one (1) to two (2). This property is a non-conforming use because multi-family dwellings are not permitted in this zone. The applicant also wishes to create six (6) parking spaces behind the house.*

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

§ 300-70 A (2): *No non-conforming use shall be changed in any way that would have the effect of increasing the density, intensity, or occupancy of the non conforming use.*

*Please Note: This property is a registered residential rental property and currently has a valid Certificate of Substantial Compliance.”*

Fifty-nine (59) 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. Will Lunn stated he was the owner of the property and he would like to withdraw his proposal. He said he was not saying that because of the conversation that just took place but because when he walked in the room and saw some neighbors and friends he realized he had been meaning to go and discuss individually with them and not in a public forum about what he was doing with the house. He said he had not had the chance to do it but he thought communication was important and he thought they all needed to know his plans and he would like to hear their concerns. He said therefore he was withdrawing his application at this time and taking it off the public forum.

Chair May asked Mr. Lunn if he wanted to withdraw his application or table it. He said by tabling the matter Mr. Lunn would not have to pay another application fee.

Mr. Lunn responded he wanted to have a one on one conversation with his neighbors. He wanted to do whatever was the easiest way for him to do that.

Chair May stated in the process he would suggest that Mr. Lunn be mindful of the new Zoning Code and the board was not disposed to change it and Mr. Lunn had a grandfathered use in an R-2 Zone, which he would not be allowed to expand. He said in speaking with the board they were all consistent with that response.

Mr. Lunn questioned if the board was making a decision on his request.

Chair May responded the board was not making a decision but he was telling Mr. Lunn that an R-2 Zone did not allow the usage Mr. Lunn proposed and he had a non-conforming use and the board was not disposed to expand a non-conforming use in an R-2 Zone. He said Mr. Lunn needed to be mindful of that and did not mean he could not use the property in the manner in which he was using it now but he could not expand that.

Mr. Lunn questioned if the process of asking for a variance request was to have the board consider altering a decision.

Mr. Lunn stated he wanted to take his request off the table because he had not done enough research.

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**(New Business – 65-67 Maple Street)** continued

Chair May asked Mr. Lunn if he would like his application tabled by the board.

Mr. Lunn replied yes.

**MOTION**, made by Commissioner Robinson and seconded by Commissioner Ficano, that the board tables Mr. Lunn's application for 65-67 Maple Street.

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

**Noes:** None

**Absent:** Commissioner Lawson

**MOTION CARRIED**

Voting followed this discussion.

Mr. Peter Friedman, petitioner, stated this was baloney. He said when an applicant like Mr. Baldo was on his way to being denied the board gives him another opportunity to drag everybody that was opposed to his project back here. He said Mr. Lunn was not going ahead with his application and now was the time for the board to say Mr. Lunn lost his \$150 and if he wants to come back pay the fee again. He suggested that the board look at all the people who came to defend their neighborhoods and had prepared for this meeting. He said he had asked that the board delay this meeting 3 days ago and nobody would do it because it was not proper notification. He said now the applicant wants to get his hearing delayed and the board was very willing to do it. He said that was inappropriate and an erosion of the Zoning Code and of the zoning process in favor of anyone who wants a variance.

Commissioner Robinson stated it was common practice to allow people to have the board table their request and considered at a later date. He said the board has done that many times.

Mr. Friedman stated he understood and thought it was inappropriate.

Ms. Laurie Zimmewicz, petitioner, stated one of the issues was that the building project was already underway without a permit at this location, 65 Maple, for an extra bedroom. She said yes he may withdraw but he was already building.

Chair May stated that did not mean he could occupy it.

Ms. Zimmewicz questioned where the fine was for him building without a building permit.

Some petitioners asked if they would be notified again via mail of the next meeting when this comes back.

Chair May replied yes if it comes back but it may never come back. He said anyone interested in receiving notification for this application comes up again to leave their name with the Clerk and he will make sure they receive a letter.

Mr. Lunn stated he wanted to apologize for everyone coming to the meeting because he really did not think it was a big thing and he did not have the chance to talk to anyone about it. He said he

**ONEONTA, NEW YORK - MAY 21, 2012 - 7:00 P.M.**

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

**(New Business – 65-67 Maple Street)** continued

would like to have the chance to go and talk to the neighbors about it and they could tell him what their concerns were.

Mr. Friedman stated he could immediately tell Mr. Lunn what his concerns were.

Mr. Lunn stated he would actually not like to do that in a public forum if that was alright with him. He said he had been trying to see Peter.

Mr. Friedman stated it was not okay with him and that he had been home most of the time. He said he thought that converting a house to a student house next to people that Mr. Lunn knew was ridiculous. He said he would discuss this at the public hearing and not discuss it with Mr. Lunn in private. He said it was inappropriate for Mr. Lunn to even ask all of the neighbors to discuss it.

Chair May asked the Clerk to call the role on the motion

Council Member Brzozowski, 7<sup>th</sup> Ward, asked the Clerk to explain who was notified of upcoming hearings.

City Clerk Koury explained that residents located within 200' of the property in question were notified. He said the 200' was measured from the property's boundary. He said those residents were properly notified but the issue was that there was an amended memo that came after the letter that went out that did not have the parking in the letter. He said a second letter was not sent.

Mr. Friedman stated but further there was no notification in the newspaper about the parking.

City Clerk Koury responded for the same reason.

Council Member Rissberger, 3<sup>rd</sup> Ward, stated since this project had not been officially approved he questioned why a stop work order had not been issued by Code Enforcement.

Code Enforcement Officer Chiappisi responded Mr. Lunn had stopped the work. He said he called Mr. Lunn and said they needed to work this out because it was an expansion.

Mr. Friedman stated he stopped because he finished the work.

Council Member Rissberger asked if Code Enforcement Officer Chiappisi had inspected the building.

Code Enforcement Officer Chiappisi replied he had not.

Council Member Rissberger stated if this project does not get approved would Code Enforcement Officer Chiappisi make Mr. Lunn remove the work.

Code Enforcement Officer Chiappisi responded the Building Code for existing buildings was specific. He said things had been going on for years and homeowners, builders, architects and engineers get together and devised a plan where in the existing Building Code there was repair work, level 1, 2 and 3 alterations and the work Mr. Lunn did falls under level 1 alteration. He said Mr. Lunn did not add or remove a doorway but increased the size of the doorway, a 32" doorway on bedrooms was a legal width.

Council Member Rissberger questioned what the space was before that.

Code Enforcement Officer Chiappisi replied it was an opening.

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**(New Business – 65-67 Maple Street)**

Chair May stated that the matter was tabled and he said the board would move on to approval of the minutes.

**APPROVAL OF MINUTES**

**MOTION**, made by Commissioner Geasey and seconded by Commissioner Ficano, that the board approves the minutes of the regular meeting held April 23, 2012.

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

**Noes:** None

**Absent:** Commissioner Lawson

**MOTION CARRIED**

There being no further business to come before the board, Chair May adjourned the regular meeting at approximately 8:00 P.M.

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JAMES R. KOURY, City Clerk

JRK/pab