

ONEONTA, NEW YORK - MARCH 26, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING 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 indicated there were no petitioners for any matters not on the agenda.

CORRESPONDENCE

City Clerk Koury gave a brief summary on the following correspondence that had been received regarding Mr. Ranieri's East Street project:

•The following letter was received March 14, 2012 from Helene S. Seldin, 16 Bugbee Road, P.O. Box 422, Oneonta:

*"James Koury
City Clerk*

Dear Jim:

As a long time resident of Bugbee Road in the city of Oneonta, I would like to voice my strong opposition to the proposed parking lot at the end of our street.

Time for a little history lesson:

In 1989 when my husband was dying and I was spending a lot of nights at Fox Hospital, I would return home to find cars parking all the way up Bugbee Road, and always feared that my driveway would be blocked in the middle of the night. The cars belonged to college students who did not want to park in the parking garages, for fear that their cars would be vandalized there.

Ed Griesmer called a meeting of the Bugbee Road residents to hear from Police Chief Donadio about this problem. He was opposed to any parking on Bugbee, because of ambulance and fire engine traffic. We reached a compromise; the city would install signs prohibiting all night and daytime parking. That is still in effect. If we have guests in the daytime, or have service men working at the house, they must park in our driveways. It is not always convenient, but we kept to our part of the bargain.

Concerning this latest issue that would affect our neighborhood, perhaps it is time to hold another meeting. We understood where the police chief was coming from, but this seems to be purely an individual attach on our property values and excess traffic on our street. We already have buses that go up and down every half hour, but we know that is necessary for the safety of the students. However, we do not look forward to even more vehicular traffic from the parking lot. At certain hours, even now, it is difficult to get out of our driveways.

We are hearing a great deal of opposition to this proposed plan, but maybe not enough to matter. It would be interesting to know where SUNY stands on this issue.

Sincerely,"

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(Correspondence) continued

•The following letter was received from Stephanie P. Brunetta, (brunettas@hartwick.edu), 177 East Street, Oneonta, dated March 9, 2012:

“Dear Mr. Koury,

I am writing to express my concerns about the proposed parking lot project for East Street properties at 176 (32 spaces) and 178 (40 spaces). My neighbors have similar concerns about the project, including those who reside more than a 200’ radius from the site. My home is located on the corner of East Street and Bugbee Road, directly across from the project site, and I am opposed the project.

Concerns include:

- 1. It is questionable, who this lot will actually serve. Neighborhood residents do not need additional parking. Those who live in City Center without driveway/garage/off street parking are not likely to park at the top of East Street and then walk or take a bus/taxi back home to City Center.*
- 2. Such a project will not help relieve the parking situation in City Center. Only students living on the SUNY/SUCO campus are likely to park there... Those living in City Center will continue to use lots/street parking near their housing. Freshman students at the SUNY/SUCO are not permitted to park on campus. I am concerned about “SUNY/SUCO Sprawl” into our neighborhoods.*
- 3. This project will only serve to decrease property values and negatively impact the overall integrity of the neighborhood.*
- 4. The lot(s) will not benefit the residents of our neighborhood nor the City at large. In fact increased traffic (vehicular and pedestrian) will only increase the need for more traffic controls. There are no sidewalks on upper East Street, Meadowbrook Lane, or Bugbee Road. What additional burdens will be placed on tax paying City residents to accommodate this project?*
- 5. This project will bring more vehicles into the City/Town... vehicles that would otherwise not be here.*
- 6. Such a project will add more traffic to an already heavily traveled road, at a pivotal corner in proximity to Oneonta Middle and High Schools. Children walking to Oneonta Middle and High Schools will be presented with considerable pedestrian safety issues.*
- 7. Parked cars left unattended present a concern; “coming and going” at all hours by non-residents is major concern. This will put increased pressure on City public safety resources (police and fire).*
- 8. All City residents should be concerned about this project and the potential precedent it creates. How feasible might it become for any City resident to create a parking "lot"/"spaces" on their private property and "rent" them out to non-residents?*
- 9. The plan for the parking lot includes at least 200 spaces in the portion of the site that is within the Town of Oneonta. Town residents in the neighborhood are opposed to the project. While, I’m aware that the City has no control over what may or may not be developed in the Town of Oneonta, the location of this site makes it a necessity that the*

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(Correspondence) continued

City make Town officials aware of residents concerns. To what degree can the City and the Town work together on addressing shared concerns? Will City residents still find themselves living with a parking lot in their neighborhood because the Town approves the proposal even if the City does not and vice versa?

10. *At the February 27 meeting of the City Zoning & Housing Board, the project's developer was granted a variance with several conditions. There was a fair amount of discussion between the Chair and the Code Enforcement Officer about whether there was a need for review of a revised site plan to reflect the conditions prior to the Board's vote on granting a variance. I was struck by the lack of detail submitted on the site plan for the project, no lighting, no indication of trees to be removed, how hill side erosion will be managed above Oneonta Creek, no paths of entrance/exit, etc. The Board voted and granted the variance. Is this in fact how the process should work? Is an environmental review necessary?*

Thank you in advance for informing the necessary Boards (Zoning & Housing) and Commissions (Planning & Environmental) about my correspondence expressing my concerns/opposition about/to this project. I hope that this project will be up for more close evaluation and discussion in the coming weeks and that residents will be notified well in advance of scheduled meetings.

Sincerely,"

●The following letter was received from Pamela Fitch Tausta, 138 East Street, Oneonta, dated March 16, 2012:

"Dear Mr. Koury:

This letter expresses my concerns about the proposed parking lot on Meadowbrook Dr. As an Oneonta resident of 28 years, I am writing this from my vantage point of 138 East St. and as an employee in Oneonta.

The parking lot can become a handy place for drug pushing to both high school and college students. Over the years, we have observed probable drug activity in the neighborhood. Police have had to monitor activity in the area. The location of the proposed lots is next to the high school fields. This gives our city police one more place to patrol.

Having been a head guard and instructor at Wilber Pool and a librarian at SUNY Oneonta, I have been aware of males exposing themselves. The high school students on the sports fields are perfect targets for these people thereby requiring more need to patrol.

Those people parking at this site would either walk up Bugbee or walk to the bus stop near the high school. In either case, they must walk in the road as there are no sidewalks. When the police put up speed recorders, the cars going by our house often register 35-45 miles per hour in the 25 mile per hour zone. The problem with too many speeding cars requires the residents of this area to walk the long way around to go to SUNY Oneonta in order to avoid walking in the dangerous road.

The parking lots will need to be plowed and salted in the winter which means the materials will be over the edge of the lot and will run into the stream. The stream floods almost annually and runs into our property damaging the trees. Added material such as car oil, salt and leaking auto gas will further damage the trees.

Sincerely,"

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(Correspondence) continued

Chair May stated those letters would be held in abeyance until Mr. Ranieri presents his paperwork and comes in for a Site Plan Review and a SEQR.

APPROVAL OF MINUTES

MOTION, made by Commissioner Shields and seconded by Commissioner Geasey, that the board approves the minutes of the regular meeting held February 27, 2012.

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

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, March 19, 2012. Affidavit as to proof of publication is attached hereto:

Cindy Drake is requesting an area variance, a use variance and short environmental assessment form because she has changed the use of the building located at 63 River Street, Oneonta, New York to a multi-family dwelling by converting the 1st floor daycare into an apartment. There are now two 1-bedroom apartments and one 3-bedroom apartment in the building. The use of this building as a 2-family dwelling with a daycare was a preexisting nonconforming use.

NEW BUSINESS

1. **63 River Street (300.09-3-02): Area Variance, Use Variance and Short Environmental Assessment Form – Cindy Drake:**

The following Memorandum, dated March 12, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: **PROPERTY ADDRESS:** 63 River Street
 TAX MAP #: 300.09-3-02
 # OF DWELLING UNITS: 3
 ZONING DISTRICT: R-2 Moderate Density Residential District
 OWNER(S): Cindy Drake
 APPLICATION TYPE(S): Area Variance
 Use Variance
 Short Environmental Assessment Form

PROPOSAL: *The owner has changed the use of this building to a multi-family dwelling by converting the 1st floor daycare into an apartment. There are now two 1-bedroom apartments and one 3-bedroom apartment in this building. The use of this building as a 2-family dwelling with a daycare was a preexisting nonconforming use.*

(New Business - 63 River Street - Memorandum) continued

Five parking spaces are required for this multi-family dwelling. One driveway and one parking space in the front yard of this property exist. The owner is considering creating additional parking spaces in the rear of the property.

Please Note: *This is a registered residential rental property. This property does not have a valid Certificate of Substantial Compliance. The certificate cannot be issued if this application is denied.*

A parking waiver from the Planning Commission may also be required for the new use.

<u>TABLE(S)</u>	<u>CODE REQUIREMENT(S)</u>	<u>EXISTING / PROPOSED</u>
300-92 <i>Permitted Uses by District</i>	<i>Multi-family dwellings are not listed as a permitted use in an R-2 zoning district.</i>	<i>This building has been converted into a multi-family dwelling with 3 dwelling units.</i>
300-101 <i>Parking Requirements by Use</i>	<i>1½ parking spaces are required for each unit with 1 bedroom. 2 parking spaces are required for each unit with 2 or more bedrooms.</i>	<i>2 parking spaces exist at this property. If parking is created in the rear of the property, 5 spaces will be provided.</i>
	<i>Parking waivers may be obtained from the Planning Commission.</i>	

<u>CODE SECTION(S)</u>	<u>CODE REQUIREMENT(S)</u>	<u>EXISTING / PROPOSED</u>
300-61 C (5) (c)	<i>The right to continue legitimate nonconforming front yard parking areas in all residential zones existing at the time of the adoption of this section, which parking areas have not previously been approved through the zoning variance procedure, shall expire on December 31, 2027.</i>	<i>There is 1 nonconforming parking space existing in the front yard of this property.</i>
300-61 F	<i>Non-conforming parking and loading. No building or lot alterations nor change of use shall be allowed which would increase the degree of non-conformity with the off-street parking and loading regulations of this chapter.</i>	<i>4 parking spaces were required for the previous use of this property. 5 parking spaces are required for the new use of this property. There are 2 existing parking spaces at this property.</i>

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(New Business – 63 River Street – Memorandum) continued

<i>300-61 G (11)</i>	<i>Enlargement of existing parking areas in the R-2 District. 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 District, shall be enlarged to create additional parking spaces unless the enlargement is in the form of a permeable surface material.</i>	<i>The owner is considering creating 4 parking spaces in the rear of the property.”</i>
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Twenty-nine (29) 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.

Chair May asked who was representing this property.

Ms. Cindy Drake replied she was.

Chair May asked Ms. Drake if she lived at the property.

Ms. Drake replied yes.

Chair May asked Ms. Drake to briefly tell the board what she would like to do.

Ms. Drake stated when she bought the building in 2000 it was a duplex. She said she lived in one side of the building in the upstairs and downstairs. She said downstairs in the other half she operated a daycare under New York State regulations according to the Office of Children and Family Services and did what was required by the city and put in an apartment in the upstairs of that half. She said when she sold her daycare business about 1½ years ago instead of 6-8 children using that space downstairs she used it as an apartment for a single adult. She said there was also a single adult living upstairs in that apartment. She said she would like to keep both of those apartments. She said since about 2004-2005 almost all of the income from the rental properties have gone back into the improvements of the building. She said in the narrative she submitted some of the improvements included a new furnace, new hot water heaters, two new sets of appliances upstairs, all of the windows were replaced, energy efficient doors installed and the front porch replaced. She said because she lived in the property she tried to be conscientious about who she rented to but it did not always work out that way but she tried to rent to people who fit the area. She said regarding the parking she had a long driveway. She said the length of the property was 110 feet and then there was an additional parking spot in the very front next to the driveway. She said one of the things that had been said was she had to provide parking for 5 and it was suggested that the back yard, which was used for barbeques, playing and gardening be a parking lot with some permeable surface. She said she thought by adding that to the back yard it would take away from the family aspect of the neighborhood and if she was required to do so it might be a financial hardship. She said certainly with the daycare traffic she had coming and going she did not have a problem with people letting their kids in or out in whatever space was available. She said now she had a single person living downstairs that did not drive and she did not have anyone upstairs at this time.

Commissioner Ficano questioned if while the daycare was their Ms. Drake lived on the 1st floor behind the daycare.

Ms. Drake responded no, the duplex she lived in was 63½ River Street and she lived in the upstairs and downstairs. She said the daycare was on the other side at 63 River Street in the downstairs.

Commissioner Ficano questioned if Ms. Drake always had the one apartment, her residence and the daycare and now wanted to have one additional apartment.

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(New Business - 63 River Street) continued

Ms. Drake responded she wanted the apartment where the daycare space had been.

Commissioner Ficano questioned where Ms. Drake would see other tenants parking.

Ms. Drake responded in the past they had used the front spot or in the driveway. She said all the parking on River Street was legal and on Wilcox Avenue. She said in the past in inclement weather they had worked out the parking in the driveway if there were 3 cars. She said she lived in the building and there was never a problem with moving the cars. She said it has not been often that she had tenants that each had a car living there since 2000.

Commissioner Robinson stated the parking seemed to be the big question and thought everybody would be concerned about that because one space exists in the driveway and now there would be a requirement for 5 and the use was changing. He said once the use was changed he thought it ought to be brought up to code and have parking provided.

Commissioner Rafter stated he agreed that parking was the concern.

Commissioner Shields stated he too was concerned about the parking.

Commissioner Geasey asked about how many cars could fit in the driveway.

Ms. Drake replied 4 and one on the side in the spot that was already graveled if they had to park there.

Chair May stated those did not count as 5 legal parking spaces.

Commissioner Geasey stated she was assuming at least 2 spaces could fit on the driveway.

Chair May stated many of those things were the case in the city and most of the properties in the city would not meet current code. He said the board was trying to balance that test between how onerous it was to tear buildings down or back yards gone for the purpose of putting in more parking or could they manage with what they had. He said according to the Ordinance Inspector there were 2 parking spots at this property and 5 were required under the current code.

Commissioner Geasey stated she was seeing 3 spaces, 2 in the driveway and one on the side where it was graveled.

Mr. Pat Colone stated he lived at 61 River Street. He said the letter he received from the city said "preexisting nonconforming use" and he questioned what that meant.

Chair May responded in the normal course of business that meant there was a daycare or a multiple unit replaced there before the Zoning Code was initiated, which would be prior to 1974.

Mr. Colone stated when Cindy bought the house it was the one apartment-single family home side of the house and one apartment-single family on the other side. He said she changed it into an apartment on the top on the 63 side and put the daycare underneath. He questioned what the preexisting condition was that allowed that to happen.

Chair May stated Code Enforcement checks their records on the history of the property and it was entirely possible that things happen in the city where people did not go to the Code Enforcement Office.

Mr. Colone stated so basically as far as parking goes it had been against the zone for the district since she made the changes.

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(New Business - 63 River Street) continued

Chair May stated that would be correct.

Mr. Colone questioned if Ms. Drake had to add parking to the back yard.

Chair May responded either that or she gets a variance for that requirement.

Mr. Colone stated if the parking spots were put in the back he asked about how big those spots would be.

Chair May replied they would have to be standard parking spots, this would fill the back yard with cars.

Ms. Drake stated when she bought the house in 2000 it was a duplex as Pat Colone had said. She said when she made the changes to put the daycare in she did whatever was requested of her through New York State Office of Children and Family Services who registers daycares and whatever the city required. She said at no time was she given any directive about having to have 4 parking spots. She said when she bought the house it had the one spot in the front and the long driveway and at no time had parking ever come up in anything. She said as many times as Ordinance Inspector Ferris had come to her place and at no time had there ever been anything that said she had to have 4 parking spots initially. She said it just had never been cited or mentioned anywhere.

Mr. Craig Terbush introduced himself and his wife Connie and said they owned the property next door to Cindy at 65 River Street. He said they have never had a problem even when the daycare was there. He said everything ran smooth. He said he thought she should have a variance based on the drawings she presented to the board because otherwise it would cause a real hardship to them. He said his reason for saying that was if you look at the drawing and snowplowing it would all wind up on his back yard which was basically a vegetable garden.

Mr. Terbush stated he too thought what Cindy said about it being a problem to the neighborhood if she was made to put a parking lot in the back especially with his property because it was down just a little from her elevation and he did not want the water.

Mr. Colone stated looking at the drawing the parking lot in the back would be 4 feet from his garage and he agreed with Mr. Terbush that he would not want to have the chance of water and melting snow from the plowing there.

Mr. Terbush stated if the board granted a variance one alternative may be that the shed at the end of the driveway be bumped back if that would create another parking spot.

Chair May stated that did not help her here.

Council Member Brzozowski stated he thought it was eminently reasonable that the preexisting nonconforming use continue.

Hearing no further comments from the audience he asked if the board had any further comments.

Commissioner Robinson stated he did not have a reconsideration of his decision but what he found fascinating was that this was listed as a preexisting nonconforming use and supposedly that means it was done prior to zoning taking effect and now it comes up that she actually made the changes so it was not a preexisting nonconforming use.

Chair May stated they could check with Code Enforcement.

Commissioner Ficano stated that made it easier to vote in favor of it.

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(New Business – 63 River Street) continued

Code Enforcement Officer Chiappisi stated he thought the applicable principle was that it was a nonconforming use as per the current Zoning Code that was enacted in 2011. He said this was an R-2 then and the use was nonconforming with this current code.

Commissioner Rafter stated he thought the statements of the neighbors saying that the improvement will not be an improvement and saw it more as a detriment to their properties for Ms. Drake to create parking in the back.

Chair May stated he concurred.

Commissioners Shields and Geasey stated they concurred as well.

Commissioner Ficano stated Wilcox Avenue did look like there was quite a lot of parking available.

Chair May stated he walked in the back yard at Ms. Drake's property and he thought it would be an imposition to the neighbors to force conversion of that back yard to parking.

Chair May stated that an area and a use variance were being requested. He said the board needed to review the Short Environmental Assessment Form (EAF).

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

MOTION, made by Commissioner Ficano and seconded by Commissioner Rafter, that based on site visits by members of the Zoning Board of Appeals and testimony heard at the March 26, 2012 meeting, that based on the neighbor's testimony and the preservation of green space the board grants an area variance and a use variance to 63 River Street (Tax Map #: 300.09-3-02) as requested by Cindy Drake converting the building into a multi-family dwelling with 3 dwelling units with the use of the 2 existing parking spaces. The granting of the variances precluded this property from the operation of a daycare there in the future without coming back to the board for permission to do that. Furthermore, the board declared a Negative Declaration on the Short Environmental Assessment Form (EAF).

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

Noes: None

Absent: Commissioner Lawson

MOTION CARRIED

Chair May stated that the Clerk would be sending Ms. Drake a letter confirming the decision of the board. He said that Ms. Drake would need to visit the Code Enforcement Office and get a Certification of Compliance for this property.

Discussion of Memorandum of Understanding with County Planning Department

Chair May stated that Otsego County has asked the city to renew a Memorandum of Understanding

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(New Business – Memorandum of Understanding) continued

with the County Planning Department because there was no more County Planning Board. He said from a zoning perspective his input was that any project that exceeded 10 acres in area or touched another municipality it would be referred to the County Planning Department for their comment. He said in the absence of that the board makes its own decision. He asked if anyone had any comment about that before the signing of the document.

The board held a brief discussion on the matter.

Code Enforcement Officer Chiappisi stated he was satisfied with the content of the MOU.

Chair May stated hearing no objections he would sign the MOU on behalf of the board so that could be put forward.

There being no further business to come before the board, Chair May adjourned the regular meeting at 7:30 p.m.

JAMES R. KOURY, City Clerk

JRK/pab