

ZONING BOARD OF APPEALS

APRIL 11, 2016 MEETING MINUTES

Present: Chairman Ron Nolland, Kathleen Insley, Scott DeMane,
Connie Fisher
Joe McMahon, Building Inspector
Kyle Burdo, Housing Code Inspector

ABSENT: Kathy Latinville (Alt.), April Kasper (Alt), Kellie Porter (Alt)

Also Present:

Appeal #2064 Stephanie Davies
Appeal #2065 Julie Reidy
Appeal #2066 Julie Woodley
Appeal #2067 Scott Allen, AES Northeast, PLLC
& Appeal #2068 Tom Murnane, Stafford, Purcell, Owens, Trombley
Scott Rosnake, R. L. Valle
Appeal #2069 Danielle Girard

Mr. Nolland called the meeting to order at 7:03 PM. The following items were on tonight's agenda. This meeting was a week early due to several board members going to training.

There were 4 members present for tonight's meeting. If any applicant wants to postpone their application, the chairman asked that they request this on their behalf. Mr. Nolland advised the applicant needed 3 positive votes to carry an action. The order of the agenda was then changed.

The first items to be heard will be Appeal Nos. #206 7 and 2068. Then #2064, 2065, 2066 and last 2069.

APPEAL	APPLICANT	REQUEST
2064	SHAWN & STEPHANIE DAVIES 175 BOYNTON AVENUE	CLASS B VARIANCE ACCESSORY STRUCTURE
2065	JULIE DANDROW-REIDY 136 CORNELIA STREET	SPECIAL USE PERMIT CONVERT OFFICE SPACE TO SALON
2066	JULIE WOODLEY 7 IANELLI AVENUE	CLASS B VARIANCE REQUEST TO WIDEN DRIVEWAY INTO SIDE YARD SETBACK
2067	R. L. VALLEE INC. EAST SIDE US AVENUE	CLASS A VARIANCE CONSTRUCTION OF A NEW CONVENIENCE STORE WITH GASOLINE SALES IN A RC-2 DISTRICT

2068 R. L. VALLEE INC.
EAST SIDE US AVENUE

CLASS B VARIANCE
1) 2 PRINCIPLE STRUCTURES ON 1 LOT;
2) LOT 13 LACKS REQUIRED OPEN SPACE;
3) LOT 16 LACKS REQUIRED SIDE YARD
SETBACK;
4) LOT 16 LACKS REQUIRED OPEN SPACE
SEQR LEAD AGENCY STATUS

2069 DANIELLE GIRARD
130 PINE STREET

CLASS B VARIANCE
CREATE PARKING IN THE FRONT YARD
SETBACK

[Meter 1:01]

The **first** items discussed were Appeal Nos. #2067 and 2068, R. L. Vallee Inc. for a Class A and Class B Variance. Tonight's discussion will be about SEQR Lead Agency Status only.

Mr. Scott Allen was present to represent these appeals, along with Tom Murnane, Council and Scott Resnake of Maplefields. Mr. Allen advised tonight they want to get the SEQR process kicked off because they do have a number of approvals involving the Zoning and Planning Boards (PB). He stated the area variances are ministerial in nature in terms of the SEQR process but a use variance would trigger a SEQR action. He understood the Zoning Board of Appeals (ZBA) traditionally acts as lead agency regarding the SEQR. To stick with that plan he requested the ZB make a determination in the type of action this evening and then he'll get the PB to concur with the ZB to act as a SEQR lead agency.

In May, the ZBA can make the determination of significant based on the environmental assessment.

Mr. Nolland advised the Building Inspector will send out the request for the Zoning Board to be lead agency to involved agencies to start the 30 day process. He thought only the PB and SHIPO were involved agencies. Mr. Nolland spoke further about the time frame for SEQR involved agencies. [Meter 6:25] There will be no public hearing tonight or testimony given regarding these 2 appeals.

Mr. Nolland reiterated to Mr. Allen he's asking the ZB to request lead agency status and determine the type of action. Mr. Nolland thought it was a Type I. Mr. McMahon thought not.

MOTION:

By Ms. Fisher, seconded by Mr. DeMane

THAT THE ZONING BOARD REQUEST TO BECOME THE LEAD AGENCY FOR R. L. VALLEE INC. ON THE EAST SIDE OF US AVENUE FOR SEQR

ALL IN FAVOR: 4

The letters will be sent to the Planning Board and NYS Office of Parks, Recreation and Historic Preservation (SHIPO).

The **second** item on the agenda was Appeal #2064, Stephanie Davies, Class B Variance, 175 Boynton Avenue for an accessory structure.

[Meter 10:25]

Mr. Nolland reminded the applicant there were only 4 zoning board members present to vote.

This request was to replace the old 8' x 10' shed with a new larger shed, 12' x 18'.

The variance sought was for lot coverage. This currently doesn't comply because they are allowed 25% and the new shed will produce lot coverage of 29.9%.

DPW comments were read into the record requesting this shed not be placed within the 20' wide utility easement. The current shed is not on this easement.

Mr. McMahon advised this is a corner lot with 2 front yards but they are allowed to choose which is the side and which is the rear. He did not believe the location they requested was an issue. An accessory structure has to be in the rear.

Mr. DeMane asked which direction it would grow. Ms. Davies advised it would grow toward her current building.

Mr. Gerry LaValley asked about plowing. He stated that plowing always obstructs the sidewalk significantly. The plow driver usually inundates that corner.

CLOSED PUBLIC HEARING PORTION [Meter 16:17]

SEQR REVIEW:

Page 1	#2	Change "No" to "Yes and add "Building Permit."
Page 1	#4	Check "Commercial."

MOTION SF SEQR:

By Ms. Insley, seconded by Mr. DeMane

THAT BASED ON THE RESPONSES TO PART 1 OF THE SHORT FORM SEQR THAT NO OR SMALL IMPACT BE CHECKED FOR NOS. 1-11 IN PART 2 OF THE FORM AND THAT THE CHAIR BE AUTHORIZED TO CHECK THE SECOND BOX ON PAGE 4 INDICATING THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT

ALL IN FAVOR: 4

MOTION APPEAL #2064

By Mr. DeMane, seconded by Ms. Insley

FOR APPEAL #2064 FOR AREA VARIANCE AT 175 BOYNTON AVENUE ALLOW UP TO 29.9% COVERAGE AS PROPOSED FOR REPLACING A CURRENT SHED THAT ALREADY VIOLATES THE AMOUNT OF COVERAGE AND WITH THE STIPULATION THAT IT DOES NOT GO FURTHER TOWARDS THE LOT LINE IN EITHER DIRECTION, (SOUTH AND EAST LOT LINE), AND NOT VIOLATE INTO THE CITY EASEMENT

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

The **third** item on the agenda was Appeal #2065, Julie Dandrow-Reidy, 136 Cornelia Street for a Special Use Permit (SUP) to convert office space to salon.

[Meter 23:22]

The section appeal is 270-10 Schedule of Permitted Uses.

This is a Special Use Permit which is a matter of right. Mr. Nolland explained about SUP process.

Ms. Fisher asked for an explanation of what the applicant is doing and why.

Ms. Reidy advised there would be a hair salon going in. This is a former office building. This will be rented. There are approximately 12 parking spaces available not including the front spaces. The 12 spaces are to the right of the building.

Mr. DeMane asked about renovations to the building. Ms. Reidy advised none to the exterior.

PUBLIC COMMENTS:

There being none the chairman then closed the Public Hearing portion of the meeting.
[Meter 28:00]

LONG FORM SEQR:

Page 2 of 13	B.B.c.	Add ZBA
	d.	Add BI
	e.	Add CCHD
Page 3	D.1.b.a.	Change > to <.
Page 5	c.iv.	Check "No."
	c.i.	Change 270 gals/day to 300 gal/day/station
Page 7	j.iv.	Check "Yes." Is shared with next door. [Discussion - not an issue]
Page 8	q.	Check "No."
Page 9	E.1.b.	Change > to <.
Page 10	d.	Add "Seton Academy & Senior Center."
	h.	Check "Yes." It's been remediated. Add: Spill No. 0806995.

MOTION:

By Mr. DeMane, seconded by Ms. Insley

REGARDING THE FULL ENVIRONMENTAL ASSESSMENT FORM FOR A BEAUTY SALON AT 136 CORNELIA STREET BASED ON THE REVIEW OF PART 1 THERE IS NO ADVERSE ENVIRONMENTAL IMPACT AND ANY ENVIRONMENTAL IMPACTS THAT HAD BEEN THERE HAVE BEEN CLEARED TO OUR SATISFACTION BASED ON THE LETTER FROM DEC.

ALL IN FAVOR: 4

MOTION ON SPECIAL USE PERMIT:

By Ms. Insley, seconded by Ms. Fisher

REGARDING APPEAL #2065 TO GRANT THE USE DETERMINED TO CONVERT AND ALLOW THE USE OF THE LOCATION FOR A BEAUTY SALON

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

The **third** item on the agenda was Appeal #2066, Julie Woodley, 7 Ianelli Avenue for a Class B Variance requesting to widen driveway into side yard setback.

[Meter 47:47]

Mr. Nolland advised Ms. Woodley used to be a neighbor of his.

Ms. Woodley has purchased the property. It's a 2 family house with only 1 parking space. There were 2 plans presented with this application. Plan A dimensions are 20' x 26'. Plan B dimensions are 9' x approximately 36'.

Ms. Fisher questioned the amount of room around the back steps.

Ms. Woodley prefers Plan A parking diagram with side by side parking. Mr. Nolland said Plan A would be more of a variance than Plan B. There is also the "appearance" of 3 stacked cars. The whole point of the ordinance is not to create parking in the front yard.

Parking requirements were discussed. [Meter 53:03] Mr. McMahon advised it has to be in the side yard, which by definition is beyond the front of the house. It's not the required front yard.

[Discussion about location of steps, side yard location, lot lines, how the driveway is the issue, legal spaces, variance wider than 12', curb cut. Meter 60:00]

Mr. Nolland spoke about granting a 30' wide towards the house she would be allowed to have that curb cut. They variance would be 30' wide to access legal size yard parking spaces - 18' deep - that would start at the front of the house. Mr. McMahon and DeMane agreed. There are no coverage issues. A legal parking space is 9' W x 18'. It should be defined from existing edge of pavement over 30'.

Mr. Nolland said they should make sure the 2 new spaces are created in the side yard and be 9' w and 18' deep, starting at the edge of the garage.

Mr. DeMane asked why the applicant is widening the driveway. Ms. Woodley explained she just wants to straighten out that portion and would be 3'9" from the fence.

Mr. DeMane had a problem granting this "sliver" because the vehicles will then be stacked across there. He doesn't think there is a legal spot in front of that garage. He didn't there was a legal spot between the garage and the front of the house. Mr. McMahon advised on that side the garage is the legal parking space. In that situation parking in front of the garage is permitted. Mr. DeMane said if you pave over the other side maybe 2 cars could fit side-by-side. The garage is only 12' wide.

AUDIENCE COMMENTS:

There being no comments, Mr. Nolland closed the public hearing portion. [Meter 1:07]

Mr. Nolland stated the concern is someone will stack 4 cars or trucks there across the front.

[Discussion 1:08:40 Dimensions of the front, getting 18' wide spaces, parking too close to garage, precedent setting if the board grants this, unusual situation, parking on the side and the width of the driveway.]

Mr. McMahon clarified if she creates those spaces out of the front yard they are legal spaces. The question is the "driveway."

Ms. Fisher asked if the Board was going with Plan A - 20' across total. Mr. Nolland said yes because it's in the side yard. Not in the front yard. They are legal parking spaces. Mr. DeMane thought they were looking at granting a larger variance for the driveway to allow a different plan in the side yard, which is legal for the plan but the Board is supposed to minimize their variance. Mr. Nolland thought this was the smaller variance. Mr. DeMane said there will be less of a variance on the driveway. Mr. Nolland said she can create these spaces. Mr. McMahon advised you have to grant her access, not straight out but access. He gave an example. [Meter 1:13]

Mr. Nolland asked which one would work better. Stack cars or side by side cars.

Mr. McMahon said historically the Board has never, in situations like this – has not been our position to allow a "straight sloth" out to the street if they create their own spaces. If you have a legal parking space you have to get to it. Mr. DeMane questioned a "self-creating" parking space. Mr. McMahon advised "location requirements in R-1, R-2 and RH zones off street parking space maneuvering shall be provided at the rear or side of the lot." This is definitely talking about the side lot. It meets that requirement so you cannot deny access. Mr. DeMane said because they are self-creating the problem.

Mr. Nolland thought they were not granting more of a variance. Mr. DeMane disagreed preferring fewer vehicles sighted from the road.

Ms. Insley didn't think the self-create hardship would be applicable here.

Mr. McMahon said this was a very unique situation because the house is so close to the front. If it was further back the creation of that parking space would be further back.

[Further discussion, Meter 1:23 , no plot plan, access, aerial view not accurate, survey, dimension between house and garage, front boundary line unknown, getting accurate measurements, more concrete plan with amount of spaces requested..??]

Mr. Nolland said the question is if the applicant wants to create 2 spaces side by side next to the garage the Board needs more of a concrete plan.

MOTION:

BY Ms. Fisher, seconded by Mr. DeMane

THAT THE BOARD POSTPONE APPEAL #2066 FOR MORE INFORMATION ON THE
BOARD'S BEHALF

ALL IN FAVOR: 4

Ms. Woodley advised she didn't need a variance for Plan B. She would like the 2-
across.

The **third** item on the agenda was Appeal #2069, Danielle Girard, 130 Pine Street for a Class B Variance to create parking in the front yard setback.

[Meter 1:32:51]

Mr. Nolland advised this one is really in the front yard.

The Section appealed is 270-25 C, B, A. Parking.

Mr. McMahon explained sections C. B. A. refer to the location of the parking area. This is parking in the front yard because it's in front of the house. There is no other way to do it on that side. The Easterly driveway she can get into the side yard but the other one is in front of the house.

Ms. Fisher asked how the applicant came up with the measurements. Ms. Girard explained the 12' was the maximum width allowed she can put and still have 18' deep due to the plot narrowing. She doesn't need a variance for the 14' wide (eastern side) but that's the max she can get and keep 3' away from the property line. Mr. DeMane questioned why no variance for the 14' driveway. Mr. McMahon advised it's a 20' setback in that district and because the way the house sits on the lot.

Ms. Girard stated she has a shared driveway with her next door neighbor (Walworth), which is a 3 unit apartment. Five (5) units share that current driveway.

[Meter 1:39 – Discussion about sidewalk width and location, why no variance for 14' w driveway.]

Ms. Insley asked if her half of the shared driveway will turn into green space. Ms. Girard said yes – regraded and back yard space.

Mr. Nolland asked if anyone in the audience wanted to speak regarding this appeal. [Meter 1:46] There being no one, he closed the public hearing portion of this meeting for this appeal.

Mr. McMahon noted that current the open space is 55.7%, which the minimum is 50%. This new plan would provide 61.6%, which would increase the open space by 6%.

Mr. DeMane asked if the whole rear area would be green space. Ms. Girard said yes.

SEQR:

Page 2 #9 Change "No." to "Yes."

MOTION:

By Mr. DeMane, seconded by Ms. Insley

IN REGARDING TO THE SHORT ENVIRONMENTAL ASSESSMENT FORM PART 1 REVIEW FOR DANIELLE GIRARD AT 130 PINE STREET AFTER REVIEWING PART 1 THAT PART II IMPACT ASSESSMENT THAT QUESTIONS 1-11 SHOULD BE CHECK NO OR SMALL IMPACT MAY OCCUR AND AS A RESULT OF THAT THE CHAIRMAN IN PART 3 CAN CHECK BASED ON THE INFORMATION AND ANALYSIS THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

ALL IN FAVOR: 4

MOTION APPEAL #2069

By Mr. DeMane, seconded by Ms. Fisher

REGARDS TO APPEAL #2069 DANIELLE GIRARD AT 130 PINE STREET TO GRANT A VARIANCE FOR A DRIVEWAY THAT'S IN THE FRONT YARD SETBACK AS SHOWN ON THE PLAN, THE SMALLER DRIVEWAY OF THE TWO, WITH THE STIPULATION THAT THE REAR PARKING AREA WOULD RETURN TO GREEN SPACE

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

James Dubrey then spoke about the Variances for Maplefields and how he owns Dubrey's Sunoco Gas Station on US Avenue. He thought this was shoved through very quick w/o any comments. He thought it got shoved through very fast. Mr. Nolland advised him there was nothing approved. No one here was asked to make comment. He referred to the "postcard" he'd received in the mail. Mr. Nolland explained the process to him and how there was "no action" taken regarding Appeals #2067 & 2068. Mr. Dubrey added he does not want to be left off. And they already have 3 gas stations on this little street. Already a grocery store. Mr. Nolland reiterated there was no action taken regarding the proposed Maplefields Convenience and gas station plans.

Mr. Dubrey also said it doesn't even say where it's located - just US Avenue. It's a big street. Mr. McMahon explained one reason there is no address is there is a proposed subdivision is pending and there is no address for this yet.

Mr. Nolland reiterated they postponed those 2 appeals and they cannot take any action until after it's decided who will be the lead agency.

Mr. McMahon added this project will go through several meetings and if he has any questions to give him a call. The Building Inspector's office will be glad to notify Mr. Dubrey regarding any of these meetings.

Motion to Adjourn:

By Mr. DeMane, seconded by Ms. Insley

Adjourned at 9:13 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System in the Common Council Chambers except as stated above. This is a true and accurate copy and transcription of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals