

## April 3, 2018 Zoning Board Meeting Minutes

Conroy called the meeting to order at 6 PM.

Attendance: Conroy, McLaren, Normile, Pavlic  
McCann was absent due to an unexpected personal emergency.

**ZB 2018-06** Charles Hathaway seeks **Area Variances** for a lot width deficiency and parking deficiency, related to a proposal to reconvert a 1-unit apartment back into a 2-unit apartment, at **3 Ashland Place (ID 101.77-8-3)** in a **R-4** zone.

Hathaway described his project.

The original plumbing which accommodates a 2-unit apartment is still there.

Conroy asked why the applicant could not have 2 off-street parking spaces.  
Hillary explained that no off-street parking spaces are possible because the yard is inaccessible by any road.

Normile asked Hathaway if he planned to reside in the project property, to which the answer was affirmative.

Nobody spoke in favor of the project.

Nobody spoke in opposition to the project.

A motion to declare the project a **TYPE 2 SEQR** action, which requires no environmental review, initiated by McLaren and seconded by Normile, passed on a 4-0 vote.

Normile made a motion, seconded by Pavlic, to **APPROVE** the Area Variance for the parking deficiency, based on the following findings of fact:

- An undesirable change **WILL NOT** be produced in the character of the neighborhood, or a detriment to nearby properties **WILL NOT** be created by the granting of the area variance), because it is in keeping with the neighborhood character, and there's no way for it to be remedied.

Conroy: YES      McCann: ABSENT    McLaren: YES      Normile: YES      Pavlic: YES  
4 Yeses, 0 Nos

Normile made a motion, seconded by Pavlic, to **APPROVE** the Area Variance for the lot width deficiency, based on the following findings of fact:

- The area variance is not substantial, because it is the way the neighborhood is laid out, and the applicant had nothing to do with it.

Conroy: YES      McCann: ABSENT    McLaren: YES      Normile: YES      Pavlic: YES

4 Yeses, 0 Nos

**Therefore, the project is APPROVED in its entirety.**

**ZB 2018-11, ZB 2018-12** Yavuz Gulluk seeks **Area Variances** for minimum lot width deficiency, maximum density, and parking deficiency, related to a proposal to convert two adjoining vacant, dilapidated 2-apartment buildings into two 4-apartment buildings, for a total of 8 apartment units, at **3249-3251 Seventh Avenue (ID 90.55-8-5, 90.55-8-6)** in a **R-4** zone.

These properties actually combine to form one building (albeit with a parti-wall in between the two halves). Because the two adjacent properties on which the building is located have two distinct entries in Citiview (the City of Troy's property database software), this project must be listed as two separate zoning cases.

Because the applicant was out of the country, Tony Trimarchi, of Arkounian/Trimarchi Engineering and Land Surveying, spoke on behalf of the applicant. 11:30

Trimarchi passed out revised site plans to the Zoning Board members.

Conroy noted that the applicant purchased these properties from the City of Troy at a property auction, in which the city's decision to sell these properties to the applicant (as opposed to other interested buyers) was based at least in part on the applicant's original plan to rehabilitate this building as 4 combined apartments, which is what the building originally was. Therefore, if the applicant turns it into 8 apartments, he is breaking a promise to the City.

Trimarchi suggested the idea of creating 6 apartments instead of 4 or 8 (4 on the first floor, and 2 on the second floor, of the combined buildings.)

Because the applicant was unavailable to answer questions, and Trimarchi did not know all of the answers, Conroy thought that it would be a good idea to table the case until May 1.

A motion to TABLE the project, initiated by Pavlic and seconded by McLaren, passed on a 4-0 vote.

**Therefore, the project is TABLED until May 1, 2018.**

**ZB 2018-13** Architecture + seeks a **Use Variance, and Area Variances** for parking deficiency, lot area deficiency, and excessive density, related to a proposal to convert a vacant combined Catholic school and convent into 21 apartments and 6 apartments respectively, at **523-525 Fourth Avenue (80.63-4-2)** in a **R-2** zone.

NOTE: The applicant is actually St. Augustine's Church, not the prospective buyer/developer. The latter does not currently have site control, since they didn't want to proceed without zoning board approval, so it was decided that the seller would be the applicant for this case.

Conroy recused herself from this case, as she is a trustee of St. Augustine's parish, the seller of this property, and therefore is inclined to have a potential conflict of interest. Therefore, McLaren chaired the hearing of this case in her stead.

McLaren suggested that:

- 1) A Special Meeting of the Zoning Board be called in the near future, when the absent member Jack McCann will hopefully be back in attendance
- 2) the audio recording of this case be made available to Jack McCann, before he votes on this case

Brian Barker, Principal of Architecture +, described the project.

The applicant has a prospective buyer/developer of the property already, after it has been on the market for less than 17 months.

The applicant had an overall site plan of the property (with dimensions of the buildings and yards), but not a DETAILED site plan showing the layout of the individual apartments.

Barker stated that each classroom at 525 Fourth Avenue (the former Catholic school) will be converted into 1 apartment, for a total of 21 apartments, and that 523 Fourth Avenue (the former convent) will be converted into 2 apartments on each of the 3 floors, for a total of 6 apartments. The two buildings combined will have 27 apartments, all with 1 bedroom and 1 bathroom. The basements of the buildings will contain common amenities but not apartments.

The project will involve considerable interior renovations.

The potential buyer/developer of the property additionally wants to purchase 532 Third Avenue, a large property across the alley from the subject property, with a dilapidated vacant house and garage that were destroyed in a fire several years ago. The buyer/developer wishes to demolish the house and garage, and turn the eastern portion of the property into a 27-space parking lot. As this project needs 27 parking spaces according to the zoning code, if 532 Third Avenue is converted to a 27-space parking lot, this project will no longer need a parking variance.

(Note: Two days after the Zoning Board hearing, a revised site plan was given to Hillary. Although it contained no more detail for 523-525 Fourth Avenue than did the previous one, it contained a detailed parking lot plan for 532 Third Avenue, which conforms to all applicable zoning code regulations.)

In favor of the project:

Jerry McGarvey, trustee of St. Augustine's Parish

- The school and convent have been vacant for almost 3 years
- The parish wants to sell this buildings, because maintaining them is an economic hardship for the parish

- By selling the property, the parish will be able to pay off most of the debt that it has incurred so far in trying to maintain the properties (utilities, insurance, broken windows, etc.) and keep the school open
- This project will add to the tax rolls

Jim Conroy, realtor for Berkshire Hathaway Real Estate (representing St. Augustine's parish, the seller)

- The property has been fully advertised and marketed
- Conroy showed it to about a dozen prospective buyers, none of whom wanted to use it as an allowable use for an R-2 zone. All of them wanted to make it into apartments, except for one entity who wanted to make it a school again, but lost interest.

4 people spoke with concerns and/or in opposition to the project:

- Too dense for the neighborhood
- Fears that it will bring a large influx of young adults into the neighborhood
- Parking **was** an issue, even when it was a school, and will probably continue to be an issue. "A comment was made (by McGarvey) that there were 21 teachers, and that parking wasn't a problem. It wasn't, because they parked in our spots."
- Wants to know if the project will be low-income housing? (Response: no.)
- Wonders how much money the renovation will cost
- Would like the buyer to charge high rents, because s/he hopes that this will bring better tenants to the property
- Wants maybe 15-16 apartments, instead of 27
- Would like the entrances and exits from the parking lot to be from the alley or the existing driveway on 114<sup>th</sup> street, so as to minimize traffic on Third Avenue
- Would like the buyer/developer to retain the fence, greenspace, and plantings in the parking lot, and possibly put a recreation place there
- Entreated the buyer/developer to ensure that the project has enough parking, so that the residents don't park in the parking lot of the Lansingburgh branch of the Troy Public Library during library hours
- Hopes that some of the historic materials of the house on 532 Third Avenue can be salvaged as the house is demolished

Hillary asked for those audience members who supported and opposed the project, respectively, to raise their hands, and took a count:

- 22 in favor
- 4 in opposition

McLaren closed the public hearing for this project.

Barker's rebuttal:

- It will be market rate housing, not subsidized housing.
- In response to why the project will be as dense as it is (instead of having fewer and larger apartments), 525 Fourth Avenue (the former Catholic school) has 21 former classrooms, and it's easiest to make 1 apartment out of each classroom, so they don't have to radically reconfigure the interior, or remove load-bearing partitions.

- Because the project is contingent upon Zoning Board Approval, the prospective buyer has not yet created a final floor plan. However, it is currently creating it for Planning Commission review.

Normile asked if the potential purchaser (who is not the applicant) will accept a stipulation that the purchaser also purchase 532 Third Avenue, tear down the existing house and garage, and turn it into a parking lot and greenspace?

Barker said yes.

Normile asked if the potential purchaser would accept a stipulation that the only access to the proposed parking lot would be from either the existing alley or existing curb cut on 114<sup>th</sup> Street?

Barker said that he believed that this is the case, but he would be willing to pass the question on to the purchaser.

Normile asked if the basement of either building would be occupied?

Barker said that the basements will have no apartments, but they will contain tenant amenities, such as a computer lounge and storage spaces.

Normile asked if the applicant had any floor plans of the proposed apartments?

Barker said not yet.

Barker noted that both 523-525 Fourth Avenue will have handicapped-accessible entrances. The buyer/developer does not yet know whether they will have elevators, or whether handicapped-accessible apartments will only be on the first floor.

Normile asked if the potential buyer would accept a stipulation that they must keep the existing iron fence and some of the greenspace, when developing the 532 Third Avenue parking lot.

Barker said yes.

Normile noted that if 532 Third Avenue is added to this case, then the case will have to come back to zoning board.

Hillary rebutted that this is not necessarily the case, because according to the zoning code, a parcel can be solely used as a parking lot, even if a parking lot is not an allowed use in its district, IF it is 300 or less feet from the parcel which it serves. Thus, it will not need a Use Variance. Only if the parking lot design violates the parking lot design section of the zoning code (§ **285-83**), will the case have to come before the zoning board again, and in that case, it will only need Area Variances.

McLaren asked if the prospective buyer/developer would consider developing the buildings with fewer than 27 apartments. Barker replied that this is probably not a possibility. The buyer/developer definitely plans to have 27 1 BRs or 2 BRs, all in the range of 650-800 square feet per apartment.

Hillary asked for clarification at this point, since up until that point, she had heard that all of the apartments would be 1 BRs.

Barker responded that the floor plans were not yet finalized, and that the prospective buyer/developer would prefer to make all 1 BR apartments, but would consider some 2 BR apartments, particularly at 523 Fourth Avenue (the former convent).

David Gonzalez cited Section 81.B.3.c of New York General City Law: “The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

Gonzalez was concerned that while the applicant provided a reason why the property could not feasibly be used for a use permitted in an R-2 zone, he believed that the applicant should also provide an analysis of the uses in between the proposed usage and the closest use permitted in an R-2 zone, and why they are also not permissible, in other words why the project had to have 27 apartments, and not 3 apartments, 4 apartments, etc. (2 apartments would be the maximum permissible in an R-2 zone.)

McLaren asked if the potential buyer could provide such information by the time the zoning board meets again to vote on this case.

A motion to TABLE the project, initiated by Normile and seconded by Pavlic, passed on a 3-0 vote.

**ZB 2018-14** Sacred Heart Church seeks **Minor Area Variances** for a nonconforming sign, related to a proposal to install an 11’ H, 32 square foot freestanding LED sign (on a 7’ H by 2’8” W pole), next to the “front” sidewalk, at **310 Spring Avenue (ID 112.58-8-2)** in a **R-3** zone.

Devon Camenga, principal of Sacred Heart Elementary School, described the project.

Sacred Heart Church will remove 1 parking space in order to install the sign.

The sign has technology than can dim the message(s) as the ambient light dims (according to time of day and weather), and a timer that can turn the sign off at night.

The sign will be double-sided.

Hillary identified the 4 area variances, which were not well enumerated in the staff report:

- Excessive sign size (32 square feet, maximum allowable is 16 square feet)
- Setback deficiency (the sign will be located about 11’ inside the curblineline, minimum allowable is 15’ inside the curblineline)
- The sign will be occasionally animated, which is not allowed
- Excessive letter height (will be variable, but about 1’ on average, maximum allowable is 4” H)

Steven Strichman, Commissioner of Planning and Economic Development, had submitted two possible stipulations to the Zoning Board:

- 1) Sign must be no brighter than 0.3 footcandles
- 2) Sign must be turned off at night

Normile asked if the applicant was willing to accept these two stipulations.

Conroy said that one stipulation is already met, because the applicant had previously stated that the sign will be turned off at night.

Regarding the other stipulation, the difficulty lies in converting LED watts to footcandles in order to find out what constitutes 0.3 footcandles..

Camenga said that he thought that the allowable maximum LED wattage is 50-56 watts.

Hillary responded that the allowable maximum LED wattage is 25-28 watts.

According to Section **§ 285-97.F** of the Zoning Ordinance: “Lighting when employed shall be constant and shall not exceed 80 watts fluorescent or 150 watts incandescent.”

According to

[http://www.usailighting.com/stuff/contentmgr/files/1/92ffeb328de0f4878257999e7d46d6e4/misc/lighting\\_comparison\\_chart.pdf](http://www.usailighting.com/stuff/contentmgr/files/1/92ffeb328de0f4878257999e7d46d6e4/misc/lighting_comparison_chart.pdf), 150 incandescent watts equals 25-28 LED watts.

McLaren asked if the applicant would accept the stipulation of a maximum of 0.3 footcandles. Camenga agreed.

Nobody spoke in favor of the project.

Nobody spoke in opposition to the project.

A motion to declare the project a **TYPE 2** SEQR action, which requires no environmental review, initiated by McLaren and seconded by Normile, passed on a 4-0 vote.

McLaren made a motion, seconded by Pavlic, to:

- 1) APPROVE the Area Variance for excessive size, based on the following findings of fact:
  - The proposed variance WILL NOT have an adverse effect in the neighborhood.
- 2) APPROVE the Area Variance for animation, based on the following findings of fact:
  - That is in keeping with the idea of having a sign to begin with, so it would not be feasible for the applicant to not have that animation.
- 3) APPROVE the Area Variance for a setback deficiency, based on the following findings of fact:
  - The applicant explained that there was a fence that’s already there. That it’s not really self-created.
- 4) APPROVE the Area Variance for excessive letter size, based on the following findings of fact:
  - In proportion to the sign size, the proposed letter size is appropriate.

(Note: Despite the discussion of stipulations, no stipulations were added to this approval.)

Conroy: YES          McCann: ABSENT    McLaren: YES          Normile: YES          Pavlic: YES  
4 Yeses, 0 Nos

**Therefore, the project is APPROVED in its entirety.**

**ZB 2018-15** Clifford Bristol seeks **Minor Area Variances** for a side setback deficiency, rear setback deficiency, and excessive lot coverage related to a proposal to install a 9¾’ H x 12’ W x 36’ L prefabricated metal carport with concrete paving under it, in the rear yard of a detached single house at **437 Ninth Avenue (ID 80.72-13-2)**, in a **R-1** zone.

Clifford Bristol described the carport.

Nobody spoke in favor of the project.

Nobody spoke in opposition to the project.

A motion to declare the project a **TYPE 2** SEQR action, which requires no environmental review, initiated by McLaren and seconded by Normile, passed on a 4-0 vote.

Normile made a motion, seconded by Pavlic, to **APPROVE** the Area Variances for a rear setback deficiency of an accessory structure, side setback deficiency of an accessory structure, and excessive lot coverage, based on the following findings of fact:

- The requested area variance is **NOT** substantial, because it's only putting an unobtrusive roof over an existing slab.

Conroy: YES          McCann: ABSENT    McLaren: YES          Normile: YES          Pavlic: YES  
4 Yeses, 0 Nos

**Therefore, the project is APPROVED in its entirety.**

**ZB 2018-16** Neil Pelone Architecture, PLLC seeks **Area Variances** for a lot area deficiency, lot width deficiency, excessive density, parking density, and gravel parking lot, related to a proposal to bring into compliance an addition of a 4<sup>th</sup> (basement) unit to a 3-unit residence by a former owner, at **156 Third Street (ID 101.61-11-21)**, in a **R-4** zone.

(Note: A typographical error on Hillary's part in preparing the agenda led to a request for an Area Variance for parking **density**, which should have said parking **deficiency**.)

McLaren asked for confirmation that the last mentioned variance (the gravel parking lot) was rescinded because after the initial submission of the application, the applicant agreed to pave the parking lot. Hillary affirmed this.

Neil Pelone described the project.

He explained that the "project", converting a 3-unit apartment into a 4-bedroom apartment, has already occurred, and therefore no construction will occur in the future, except for paving the future parking lot. This case is only to receive legal permission for a project which somebody performed in the past, without applying for and receiving a Certificate of Occupancy.

The property owner (Gloria Mooney) does not live there, but has owned it for several years. She wants the property assessment to increase. She may want to refinance the property in the future.

Nobody spoke in favor of the project.

Nobody spoke in opposition to the project.

A motion to declare the project a **TYPE 2** SEQR action, which requires no environmental review, initiated by McLaren and seconded by Normile, passed on a 4-0 vote.

Normile made a motion, seconded by Pavlic, to **APPROVE** the Area Variances for a lot area deficiency, lot width deficiency, excessive density, and parking density, based on the following findings of fact:

- An undesirable change **WILL NOT** be produced in the character of the neighborhood, or a detriment to nearby properties **WILL NOT** be created by the granting of the area variance, because it's been in effect already.

Conroy: YES      McCann: ABSENT    McLaren: YES      Normile: YES      Pavlic: YES  
4 Yeses, 0 Nos

**Therefore, the project is APPROVED in its entirety.**

It was suggested by Conroy, and informally agreed (though not voted) that a Special Meeting of the zoning board would occur at 6 PM on Tuesday, April 17.

Case 2018-13 (523-525 Fourth Avenue) will be the only case in the Special Meeting.

McLaren made a motion, seconded by Normile, to adjourn the meeting at 7:40 PM.