

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

April 17, 2018

Chairperson Sweet made a motion that all actions taken tonight are excluded, exempt or Type II actions for the purpose of the State Environmental Quality Review Law unless otherwise stated. Motion seconded by Frank Clavelli, Jr., unanimous approval.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-41

IN THE MATTER OF: George Buske

WHEREAS, George Buske, owner of property situate in a Residential, R3 Zoning District in the 2nd Ward of the City of Oswego, New York, with address 188 East Bridge Street, being Tax Map Number: 128.49-04-05, has applied for a Rear Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a 16'x18' storage building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

George Buske of 188 East Bridge Street was present for the discussion, as well as Councilor DeMassi. Mr. Buske said he would like to build a small workshop. He said it would be too small to fit a car in there. Chairperson Sweet said it is all fenced in the back. Mr. Buske said yes. He said the driveway doesn't go all the way back to it. Chairperson Sweet asked if it will be a storage building and not a garage. Mr. Buske said he is going to build stuff back there and do woodworking. He said it would also store the snow blower and lawn mower. Councilor DeMassi said there is a small shed back there and then a bigger one with tarps on it. Mr. Buske said that is coming out. He said that is why he is building this. Councilor DeMassi said she doesn't have an issue with it as long as that is what is happening. She said she has heard no complaints from anyone in the neighborhood. Chairperson Sweet asked if there was anyone in favor of this application and no one came forward. She then asked if there was anyone opposed to this application and again no one came forward. Frank Clavelli, Jr. stated he has a letter from the Oswego County Department of Community Development, Tourism and Planning stating there is no significant county impact so it should be decided as a local issue. Mr. Caraccioli questioned if the shed is going to be removed. Mr. Buske said there is only going to be the new one. He said everything else is going to be gone. Mr. Caraccioli asked the dimensions of the current shed. Mr. Buske said 12x12. Mr. Caraccioli asked how long the shed has been up. Mr. Buske said probably nine years. He said the little wooden one was removed last year. Mr. Caraccioli said the Rear Yard Setback is 25' and that is rear to Rt. 104. Jim Bell said that is correct. Chairperson Sweet said the Board has to consider in granting any area variances tonight the following criteria: 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance, 2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance, 3) whether the requested area variance is substantial, 4) whether the proposed variance will have an

adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and 5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. Mr. Caraccioli said this is referencing New York State General City Law Section 81-b(4).

RESOLVED, that a Rear Yard Setback Variance be granted to allow for the construction of a 16'x18' storage building.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-42

IN THE MATTER OF: George Buske

WHEREAS, George Buske, owner of property situate in a Residential, R3 Zoning District in the 2nd Ward of the City of Oswego, New York, with address 188 East Bridge Street, being Tax Map Number: 128.49-04-05, has applied for a Side Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a 16'x18' storage building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Side Yard Setback Variance be granted to allow for the construction of a 16'x18' storage building.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-45

IN THE MATTER OF: James & Carol Balmer

WHEREAS, James & Carol Balmer, owners of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 60 West Seneca Street, being Tax Map Number: 128.54-01-01, has applied for a Maximum Coverage Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a 1525 sf. garage and suite addition and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

James & Carol Balmer were present for the discussion, as well as Councilor McBrearty. Mrs. Balmer said they were here in January and were trying to build a new home on West 7th and Ellen Street. She said they are moving back to Oswego from Denver. She said they need a wheelchair accessible suite in their home for their 25 year old disabled daughter. She said they received a new builder's estimate for the home they were going to build on West 7th and Ellen Street that was much higher than they planned. She said they have now bought this home at 60 West Seneca Street. She said it has a very spacious yard. She said it is a tri-level home that isn't so ideal for a wheelchair user but the spacious yard gives them room to put an addition on the home that will be her independent living suite. She said they will be turning the existing garage so that the entrance is on West Seneca Street because the planned addition for her suite will butt up against the current doors of the garage. She said they need to have a wheelchair van with a side ramp. She said you need 8' of clearance at the side of the van. She said they want the space of a three car garage. She said they don't have that when they turn the garage so part of the addition is another bay to the garage. She said the two suites will be connected by a wide hallway. She said there will be shared space there. She said the addition will be about 1500 square feet. She said that takes them to 36% lot coverage. She said the planned addition won't go any closer to the rear and front property lines than the existing structure goes. She said because the house was built before the variances were required there is no existing variance that can grandfather the front and rear property lines in. She said they now have a wonderful house in a wonderful neighborhood. She said it will give their daughter easy accessibility to downtown. She said she hopes they can add the addition that will make it all work for her. She said this addition meets all of their needs. She said they are still going to put an elevator in so she will have full access to the family room and upstairs if needed. Mr. Balmer said their current home is a ranch with a walk-out basement. He said this will give her the independence that she needs but they will also be close by if she needs assistance. Don

Belcastro asked if the front of the house has two garage doors on it. Mrs. Balmer said it will. She said where the three garage doors are will become a wall with columns and another bay will be added. Jim Bell said that is to accommodate the ramp because it needs a minimum of 8 feet. He said currently there is a three car garage on the house. Mrs. Balmer said most of it remains garage but it is the wide wheelchair bay in the garage. Jim Bell said the back bay becomes the shared space. Mrs. Balmer said that will be the shared powder room, laundry room, and mechanical room. Don Belcastro said when he drives by he is going to see two garage doors on the front of the house. He asked if there is something they could do to put some extra consideration into those doors. He asked how you would enter the house. Mrs. Balmer said there are several options. She said there will be a terrace that will help with the curb appeal of this project. She said they are using the smaller doors and rather than having three doors on this garage they are using two garage doors and a man door. She said they will be doing work on the main front door entrance. She said they are planning to add windows on the park side of the house. She said the most important thing for them is to be able to meet the accessibility needs and in order to do that they need access for two cars there including the wheelchair van. Anthony Pauldine said since the driveway comes in on West Seneca Street it makes sense to have those garages where she has them. Don Belcastro said he knows they will pick really beautiful garage doors. Mrs. Balmer said they don't want something tacky there. Mr. Caraccioli said this will remain a one family dwelling. Mrs. Balmer said absolutely. Mr. Caraccioli said they are not seeking any type of conversion from a one family to a two family. Mrs. Balmer said they are not. Mr. Caraccioli said it is important to have that on the record for future interpretation of the intent of the applicant. He said he could see future occupants trying to convert this and say it is a two-family dwelling when two-family dwellings are not allowed in this neighborhood. Mark McManus said they specifically included shared space between the two sections of the house to preclude there being any chance of it being mistaken as a two-family home. Mrs. Balmer said she is sure her daughter will refer to it as her apartment but they understand it is a horseshoe shaped home with a shared garage in the middle. Chairperson Sweet asked if there was anyone in favor of this application and Mark McManus came forward. She then asked if there was anyone opposed to this application and Jo Goplen of 63 West Seneca Street asked if she could ask a question. She asked the estimate of the square footage of the reduction of the green space. Jim Bell said it is very little because of the asphalt coverage of the turn-in driveway. He said it is a total of maybe 100-110 square feet. Councilor McBrearty said she had some concerns that were explained by Carol and Jim. She said spoke to a couple of neighbors that had similar questions mostly regarding the future use. She said with it being in the record that it is a single family home it has allayed those concerns. She said so much of the new addition is now asphalt because of the turn-in driveway and this alleviated the concern about the use of green space. She said she is excited about it.

RESOLVED, that a Maximum Coverage Variance be granted to allow for the construction of a 1525 sf. garage and suite addition.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-51

IN THE MATTER OF: James & Carol Balmer

WHEREAS, James & Carol Balmer, owners of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 60 West Seneca Street, being Tax Map Number: 128.54-01-01, has applied for a Front Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a 1525 sf. garage and suite addition and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Front Yard Setback Variance be granted to allow for the construction of a 1525 sf. garage and suite addition.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-52

IN THE MATTER OF: James & Carol Balmer

WHEREAS, James & Carol Balmer, owners of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 60 West Seneca Street, being Tax Map Number: 128.54-01-01, has applied for a Rear Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a 1525 sf. garage and suite addition and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Rear Yard Setback Variance be granted to allow for the construction of a 1525 sf. garage and suite addition.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-50

IN THE MATTER OF: Sarah Hoefer

WHEREAS, Sarah Hoefer, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 27 Gerritt Street, being Tax Map Number: 128.55-02-14.02, has applied for a Special Permit in accordance to Section 280-24(A) of the City of Oswego Code, to allow a home occupation and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared.

Sarah Hoefer of 27 Gerritt Street was present for the discussion, as well as Councilor Corradino. Mrs. Hoefer said she is a stay at home mom of six children. She said she and other moms were looking at things to do where they didn't need to pay for daycare but could have some adult interaction. She said she has been in fitness her entire life. She said her friends and their kids would come over to work out and she thought she could turn it into a small business in her garage. She said she got her business certificate and thought that was the extent that she needed to do. She said she started with two or three people over at a time. She said it came to her attention that some of the neighbors were upset because of parking on the street. She said she would like to continue doing what she is doing and see if there is a way to accommodate the neighborhood and make things work. Don Belcastro asked what the parking rules on the street are. He asked if there are signs on the street. Mrs. Hoefer said no. Don Belcastro asked what it means if there are no signs on the street. Jim Bell said you can park on the street. He said there is no prohibitive parking. Don Belcastro asked if there is any time restriction. Jim Bell said in the winter there is the ban but other than that he doesn't believe so. He said it would be a good question for the police. Mrs. Hoefer said she has six kids of her own and between her and her husband they have nine kids. She said three of those kids have driver's licenses. She said they have a big family. She said on weekends, Sunday dinners and holidays there is more parking on the street than her business. Chairperson Sweet asked what she teaches. Mrs. Hoefer said personal training. She said she is a certified personal trainer. She said they come to her garage and work out for a half hour to 45 minutes. Chairperson Sweet asked if she has equipment in there. Mrs. Hoefer said yes. She presented pictures she took of the equipment. She said her garage is a two car attached garage. She said the equipment is very minimal. She said there is no outside signage. Mark Brunschweiger asked how many cars she can park in her driveway at once. Mrs. Hoefer said it is a two car driveway. Chairperson Sweet said they need to determine if this is a home occupation business. She said under Section 280-23 permitted uses are one-family dwellings, schools, religious institutions, and accessory uses. She said special permit uses, which is what Mrs. Hoefer is applying for, are

home occupation, public utility facilities, outdoor recreations, community centers, hospitals, nursing homes, convalescent homes, assisted living homes, independent living facilities and clinics, clubs – nonresident, philanthropic institutions, barbershops, beauty parlors and tanning salons, professional, medical and dental offices, funeral homes, additions to owner occupied two-family dwellings (addition limited to single-story, two-hundred-square-foot, nonsleeping quarters) – additions allowed for sleeping quarters for the disabled or handicapped meeting ADA requirements, tourist homes, parking, new two-family dwellings, antique sales, miscellaneous storage buildings, internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom) – kitchen shall not be installed unless it is replacing an existing kitchen, internal conversion of pre-existing non-conforming use for additional living space – kitchen shall not be installed unless it is replacing an existing kitchen. Chairperson Sweet said home occupation includes artists, babysitting, cooking, drafting, dressmaking, laundering, upholsterer, photographer, professional residence-office and other trades and businesses of a similar nature. She said home occupation shall not include animal hospitals, antique or other retail sales involving merchandise for sale on the premises, barber or beauty shops, clinics, commercial stables or kennels, convalescent homes, garages or repair of motor vehicles, electrical, radio and television repair, furniture refinishing, mortuary, music or dancing instruction in groups, restaurants, woodworkings, machine shops, pattern making, sheet metal shops, tinsmithing shops, animal grooming, contracting offices and other trades and businesses of a similar nature. She said they have the job of determining if this is considered a home occupation which would be allowable in an R3 district. Mr. Caraccioli asked if anyone else is working with her or for her. Mrs. Hoefler said no. Mr. Caraccioli said the people pay her to train. Mrs. Hoefler said yes. Mr. Caraccioli said it is wholly contained within the garage. Mrs. Hoefler said yes. Mr. Caraccioli said as part of the definition of home occupation there is one other critical part. He said “Home occupations shall be carried on wholly within the dwelling or an accessory building to the equivalent of one-third the ground floor area of the dwelling. Not more than one nonresident person outside the family shall be employed. There shall be no exterior storage of materials used in the occupation and no storage in any location of merchandise available for sale on the premises”. Don Belcastro asked if in the warmer weather the garage door would be open. Mrs. Hoefler said sometimes. Mr. Caraccioli asked how frequent the training sessions are and how long. Mrs. Hoefler said she brought her schedule. She said her sessions don’t go more than 40 minutes. She said it is not a fulltime business. Mr. Caraccioli asked how many she trains at one time. Mrs. Hoefler said the maximum is four. She said on Sundays she will have four for the first half hour and four for the second so there are times it looks like there are a lot of cars in the street but they are switching places. Mr. Caraccioli said she trains people individually and then has classes. Mrs. Hoefler said yes. Don Belcastro asked if her certification is state authorized. Mrs. Hoefler said no. She said it is a national accredited organization. Mr. Caraccioli asked if she needs to register her business with the State of New York as a licensed professional. Mrs. Hoefler said no. Chairperson Sweet said she has received correspondence from Bill Jones, Jerry Collins and Cathy Izyk. She entered the letters into the record. She read the letter from Bill Jones of 32 Gerritt Street since he was not present for the meeting stating his opposition. Frank Clavelli, Jr. read a letter of support from Tricia Vivlamore. Chairperson Sweet asked if there was anyone in favor of this application and Greg Callen of 2991 State Route 48 came forward. Mr. Callen said

he is a disabled athlete. He said several facilities in town cannot accommodate his needs. He said this personal trainer has gone above and beyond to accommodate his needs. He said he has seen no traffic problems and there is no signage for parking limitations. He said he is in full support. The next to come forward was Lynn Farella of 20 Kennedy Avenue. She said she has been training with Sarah for a couple years. She said she has completely changed her health and her way of living. She said she trains with two other people and they are there for 40 minutes. She said they park on the same side of the street so they don't disrupt neighbors. She said there has never been a problem in the winter with the plow getting through when they are there. She said she is in support. Don Belcastro said they are talking about two different things here. He said they are talking about parking on the street and home occupation. He said they have nothing to say about the parking on the street but they do have something to say about the home occupation. Mr. Caraccioli said it might be appropriate to review the criteria for granting a special permit because they do have to look at the character of the community and how that could be impacted by the use being proposed. He read from Section 280-41 "Before granting a special permit for any use conditionally permitted by the zoning district regulations, the Board of Appeals shall determine that the proposed use will: A) Be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities. B) Be in accordance with the City Master Plan and provide any appropriate conditions and safeguards in harmony with the general purpose of this chapter. C) Cause no undue traffic congestion or create an unnecessary traffic hazard. D) Include traffic access, interior circulation and parking and loading spaces, adequate in location and design. E) Not have a substantially adverse effect upon the character of or property values in the area. F) Incorporate adequate safeguards, screening fences and landscaping to protect and maintain the harmony of the surrounding area. G) Not otherwise impair the public health, safety and general welfare. He said those are the criteria for granting a special permit. Chairperson Sweet asked if there was anyone opposed to this application and Kathy Izyk of 34 Gerritt Street came forward. She said this has been going on for three years but recently it has gotten to a point where her business has grown. She provided pictures to the Board. She said if there was a fire or emergency there would be no way for them to access their house because there were so many vehicles. She said there are cars there at 5:30 a.m. and when she gets home from work at 4:00 p.m. She said they park outside her bedroom window. She said if the parking in their driveway is full then there is nowhere to park near the house. She said she headed the Renaissance grant program for her street. She said it wasn't her intention to beautify their neighborhood and have a business move in. She said she moved in there because it was a quiet peaceful street and she hopes to keep it that way. The next to come forward was Jerry Collins of 21 Gerritt Street. He said he feels the character of the neighborhood has taken a step backwards with the vehicular and pedestrian traffic. Councilor Corradino said he became aware of this through a phone call from a neighbor. He said he toured the facility. He said it is a two car garage with some pieces of equipment. He said he received two emails and two phone calls. He said some were duplicates of what the Board received. He said they were all opposed and he did not receive any in support. Kathy Izyk said there was a video of twelve people participating at one time. She said that is a lot of cars coming and going. Isa Gray spoke in support. She said she started training with Sarah in January because her health was very poor. She said if she is forced out of her garage she can't see where she will be able to continue

to offer a valuable service to people like her that need help with meal plans to get health issues under control. She said she has never been there with more than four people and that includes Sarah. Kathy Izyk said she isn't opposed to her having a business but not outside her door when it is supposed to be a residential neighborhood. She said it is wonderful what she brings to the community but there are so many vacant spots open within our community that would be suited for her with adequate parking. The next to come forward was Jeff Hoefler. He said he is Sarah Hoefler's husband. He said there is a lot of anger coming out due to this. He said he wishes they had the communication beforehand that certain things bothered the neighbors. He said if she was to move out and get a facility the prices would have to go up astronomically. He said parking could be easily remedied by parking on only one side of the street. He said it is a wide street. He said he doesn't want to see her not be able to stay home and take care of the kids and still feel like she is supporting the family with a business. He said they have six kids and they will probably park on the street soon. Chairperson Sweet said their job is to adhere to the zoning code. She said they hear everyone's input but their job is to follow the code book and criteria for special permits. She said they are going to discuss whether this falls into the category of home occupation. She said then they have to consider the criteria for special permits. Anthony Pauldine said he listened to what the rules are and he doesn't see the difference between what she has and a hairdresser and that is an occupation that is not allowed in a residential area. He said a dressmaker and some of the other things speak to being more singular. He said he would say that it does not fit the criteria for that area. He said he would have a hard time granting a special permit because of the problems with the neighborhood and the parking. He said he treads very carefully on any businesses that go into a residential area. Mr. Caraccioli said a barber/beauty shop is permitted by way of special permit uses in an R3. He said they are not allowed as home occupations. He said one use that is permitted under home occupation is babysitting. He said one use that is not permitted is music or dancing instruction in groups. He said they need to determine whether this use is more akin to a babysitting service or music and dancing instruction in groups. He said that may get them past the home occupation part of it. He said they would still have the relevant concerns of the neighbors regarding parking and character of the neighborhood. Don Belcastro asked if they can table this and how it would work if they did. Chairperson Sweet said there is no action. Don Belcastro asked if they could continue doing what they are doing. Anthony Pauldine said it does not mean they can continue on as they have been without permission from the Board. Frank Clavelli, Jr. said they could table to resolve the parking problem. He said a possible solution could be parking signs. Chairperson Sweet said that would have to go to traffic review. She said they have to determine whether they want a business in this R3 district. She said what sticks with her is what is not allowed is the music or dance instruction in groups. She said this is a group activity. She said the classes are group instruction. Frank Clavelli, Jr. asked about the other condition for home occupation. Chairperson Sweet read "Home occupations shall be carried on wholly within the dwelling or an accessory building to the equivalent of one-third the ground floor area of the dwelling". Jim Bell said they meet that. Mr. Caraccioli said they meet all the criteria in A for home occupation. He said B & C are home occupations that are allowed and those not allowed. Chairperson Sweet said the Zoning Board have the right to interpret and decide if they accept it as home occupation under the criteria. Mark Brunschweiger said he feels it fits under music or dancing instruction in groups and he

isn't sure how they get around that. Chairperson Sweet said since their application went in as a home occupation then that is what they need to consider. Councilor DeMassi said she doesn't understand the music part of it. Frank Clavelli, Jr. said they are just trying to understand how it fits and where. Mr. Caraccioli said it would be an easy decision if home occupation allowed or didn't allow a fitness facility or gym. He said the Board needs to interpret the meaning of the words. He said they need to apply a common sense interpretation or definition of a use. He said that is why he focused in on the nature of the business. He questioned if it is more akin to a babysitting service where you are dropping off and picking up or an instructional business in groups where people come into the home and are instructed. He said a professional residence office is a doctor or lawyer which is allowed as a home occupation. He said there could still be a traffic issue. He said the ordinance is old and they are rewriting it now. He said some of this may be contradictory. He said barber/beauty shops are permitted as stand-alone but they are not permitted as a home occupation. He said whether it is proposed as a home occupation or a stand-alone business you are still going to have a traffic situation. Anthony Pauldine said if it were a stand-alone a whole different set of rules would apply as in parking. Chairperson Sweet said even if they agree this is home occupation then they have to refer to the criteria for granting the special permit. Mr. Caraccioli said if they determine it is not a home occupation then they don't get to the second part of the analysis of whether a special permit is allowed or not. Frank Clavelli, Jr. said she has a certificate of training. He said she can be considered a professional. Mr. Caraccioli said it is a national certification. He said a professional residence office is a doctor or a lawyer. He said they are licensed by the State of New York. Frank Clavelli, Jr. asked if she could do this without garnering any money. Mr. Caraccioli said the definition doesn't say for remuneration. He said at some point it is decision time on whether this is a home occupation or not. He said if it does then the analysis turns to special permit provisions and if it doesn't then the analysis ends. He said this city's zoning ordinance specifically says in respect to granting a special permit that the Board's powers are to grant or deny. He said they can't grant with modifications. Councilor DeMassi asked if there was a possibility of making an agreement with those opposed that they would park on only one side of the street. Chairperson Sweet said they can't consider a personal agreement between them. She said they have to determine whether this is a home occupation. She asked if she always does group instruction or does she also do one on one. Mr. Callen said he does one on one instruction. Chairperson Sweet asked if she has to do group instruction. Mrs. Hoefler said no. She said she just started group instruction in January. Chairperson Sweet asked if that was when the traffic problem started. Cathy Izyk said in the mornings and evenings there are still more than one car there. She said they can only fit two cars in their driveway. Chairperson Sweet said she just started classes and that is when the traffic congestion started. Cathy Izyk said that is when it got out of hand. She said before that cars still parked right in front of her house and bedroom window. Anthony Pauldine asked if she does it one on one is it still a home occupation. Chairperson Sweet said that is what they are trying to determine. She said what pops out to her is the music or dance instruction in groups which is not allowed under home occupation. Mr. Caraccioli said another use that they may have overlooked is photography. He said that would be more akin to the one on one. He said the key is a group activity versus one on one. Councilor DeMassi said they can park on the street. She said no one is illegally parking there. Cathy Izyk asked if there is a noise ordinance. Chairperson Sweet said noise has decibels

attached to it so you really have to be pretty loud. Cathy Izyk asked if there is a time. Frank Clavelli, Jr. said it has to be for a sustained period of time. Chairperson Sweet asked what they mean by noise. Mr. Izyk said if she is working nights and she is sleeping during the day and a couple cars pull up, shut their doors and hit their beeper. He said they have a tendency to park right in front of her house. Frank Clavelli, Jr. said that wouldn't break the noise ordinance. Mr. Izyk said parties and get togethers are part of normal living. He said this is day after day. He said that is where the noise thing comes in. Chairperson Sweet said she can't get past the music and dancing instruction in groups and she is having classes. She said they could pull this application and table this. She said she couldn't do the instruction in the meantime because she is not permitted right now. She said she could amend her application if she wanted to do individual instruction. She said they couldn't guarantee that would meet the criteria but it is something she would have an option to do. She said she could rewrite it and present it as individual instruction or they could vote tonight. Jim Bell said once they vote it is over. Mr. Hoefler said they can pull it and don't charge people. Anthony Pauldine said she still couldn't do group as an occupation. He said the opportunity is if she wants to withdraw this and come back with the emphasis as one on one and not group. He said she has presented group which doesn't fit the criteria. He said he would vote no on it. He said if it gets voted down then that is the end of it. Mrs. Hoefler said she would pull the application. Mr. Caraccioli said her application states she would train one to three people at a time for approximately 30 minutes per session with two classes per week having up to seven clients in class. He said that is where she is hearing some of the concern is. He said whether she makes money or not is not an issue here. He said there is a traffic advisory committee. He said there is no parking ban there but there may be an opportunity to review that with the committee to see if there are any ideas on parking or a plan of where her customers are going to park. Frank Clavelli, Jr. said there could also be a time frame. Mr. Caraccioli said the way it is now it sounds like if a vote were taken it would not work in her favor. Chairperson Sweet said they appreciate what she does but she doesn't see a way around the classes. Mr. Caraccioli said she will be withdrawing the application without prejudice to submit a new plan. He said none of this will be held against her.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-48

IN THE MATTER OF: Atom Avery

WHEREAS, Atom Avery, owner of property situate in a Central Business, B2 Zoning District in the 3rd Ward of the City of Oswego, New York, with address 189 West First Street, being Tax Map Number: 146.31-02-15, has applied for a Special Permit in accordance to Section 280-33(G)&(H) of the City of Oswego Code, to allow for a 27,645 sf. mixed use building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

Atom Avery was present for the discussion, as well as Councilor Hill. Mr. Avery said he is here for a special use permit for a mixed dwelling of commercial space and residential units. He said the proposed project is a four story building. He said the basement will be parking for residents only accessed through the Water Street side, commercial on the first floor, residential on the second and third floors, and the fourth floor will be mixed residential use and a 1,900 square foot rooftop bar/grill. He said the main entrance will be on Bridge Street. Frank Clavelli, Jr. asked if there will be windows on the First Street side. Mr. Avery said yes. He said the next step after approval is to go to construction drawings but the intention is to be glass on the first floor of the commercial space. Chairperson Sweet asked if he is considering using the structure that is there. Mr. Avery said the proposed plan is to demo the first story but they are planning on using the foundation and the decking of the first floor. Chairperson Sweet said it will be underground parking. Mr. Avery said yes but just for residents. He said the exact location of stairwells from floor to floor is still to be determined. He said these are concept drawings. Frank Clavelli, Jr. asked if he will get parking from the city in the Water Street parking lot. Mr. Avery said they are proposing 16 units and currently the plan allows for 16 parking spaces. He said the parking depends on the residents vehicles. He said he is probably going to need an additional few spots. He said this is market rate housing. He said the people who have reached out so far are young professionals and those downsizing. Frank Clavelli, Jr. asked if it is to rent or own. Mr. Avery said rent. He said the units are not large. He said it would be difficult to have children in these sized apartments so that is not the target market. Chairperson Sweet said the application is for mixed use or commercial/residential and maximum coverage. She said that is already there. Jim Bell said the difference is it is a different use and they are taking down the structure. Mr. Caraccioli said the new zoning regulations will recognize in some areas that the maximum coverage can be 100%. He said here they have the maximum of 75% so that is why the 25% variance is needed. Anthony Pauldine asked why he needs a variance when the

building already exists. Jim Bell said because it is a different use and he is removing part of the building. Anthony Pauldine said the building is already there and the issue is adding the residential in the downtown area and that is what needs the special permit. Jim Bell said yes. Mr. Caraccioli said worst case scenario it provides justification for granting the 25% variance. Anthony Pauldine said he doesn't have any problem granting it because the building is there. He said he is just surprised they are requiring him to do it when the foundation is there and it is the same footprint. Mr. Caraccioli said it is a conservative interpretation. He said they have the right to override or grant the variance. Councilor Hill said he has heard no issues, complaints or concerns expressed. Mr. Caraccioli said the Planning Board did a SEQR analysis. He said this is an unlisted action and they issued a negative declaration. Frank Clavelli, Jr. read a letter from the Oswego County Department of Community Development, Tourism and Planning stating they recommend approval. Mr. Avery said the building is currently not vacant as the letter states. Anthony Pauldine said he owns property that is immediately adjacent but he doesn't have anything to do with this project and has no financial interest in it.

RESOLVED, that a Special Permit be granted to allow for a 27,645 sf. mixed use building.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-49

IN THE MATTER OF: Atom Avery

WHEREAS, Atom Avery, owner of property situate in a Central Business, B2 Zoning District in the 3rd Ward of the City of Oswego, New York, with address 189 West First Street, being Tax Map Number: 146.31-02-15, has applied for a Maximum Coverage Variance in accordance to Section 280-34(A) of the City of Oswego Code, to allow for a 27,645 sf. mixed use building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of April 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Maximum Coverage Variance be granted to allow for a 27,645 sf. mixed use building.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine