

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

April 21, 2020

Mr. Caraccioli said Connie Ryan would be the alternate this evening and she is a non-voting participant.

A motion to approve the minutes of the March 2020 meeting was made by Chairman Clavelli and seconded by Matthew Brancato; minutes unanimously approved.

Chairman Clavelli 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 Mark Brunschweiger, unanimous approval.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 20-60

IN THE MATTER OF: Strategic Domains, LLC

WHEREAS, Strategic Domains, LLC, owner of property situate in a WA, Waterfront Zoning District in the 1st Ward of the City of Oswego, New York, with address 143 West First Street, being Tax Map Number: 128.46-05-07, has applied for a Special Permit in accordance to Section 280-19(B) of the City of Oswego Code, to allow for a mixed use building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 21st day of April 2020 and the applicant having appeared and no one appearing in opposition.

Jared McCormick, on behalf of Daniel Manning Architects, was present for the discussion. Mr. McCormick said the project involves a proposed change in use to allow for a mixed use building in a Waterfront Zoning District. He said the previous use was a retail auto parts store. He said the proposed mixed use is a combination of restaurant and residential uses. He said the first floor would be restaurant use and the second floor would be residential use. He said there are two apartments proposed on the second floor. He said the project's scope includes new storefront on the exterior, replacement and new windows along the second floor and first floor, masonry restoration including paint removal and brick repointing. He said it would also include restoration of all existing wood cornice and dentil trim that exists on the south and west facades. He asked if he should go into the interior scope of work. Jeff McGann said he doesn't think he needs to get too deep into the scope of work unless someone has a question. He said one of the big concerns that was brought up at the Planning Board was whether they would be keeping the original cornice. He said they have addressed that. He said they will be keeping the original integrity of the outside. Chairman Clavelli asked if there is going to be any planned seating along the riverside. Mr. McCormick asked if he is referring to West Cayuga Street. Chairman Clavelli said yes. Mr. McCormick said at this time there is no planned outdoor seating along there. He said that would be a new city sidewalk. Chairman Clavelli asked about the eastside of the building. Mr. McCormick said there is none planned there either. Jeff McGann said Ed's project across the street that has gone through previously and is under construction involved a little redo of the street there with the parking and the sidewalks. He said this project is pretty much mirroring that on the other side of the street. He said if you were to look at what is there now the sidewalk is out closer to the road and half of it is paved over. He said cars park there illegally over the sidewalk. He said there is no rhythm to what is going on there. He said the plan is to run the sidewalk up along the side of the building so that the pedestrian traffic is up safe against the building. He said then they would create the parking spaces outside of that to mirror across the street. He said it would be continued past the counseling building that is just east of it to the corner. He said that lines the sidewalk up

with the crosswalk to go down to the amphitheater. Chairman Clavelli asked if there was anyone from the public that would like to speak and no one came forward. Richard Lafond questioned the structure on the corner that is spanning out into the road. He asked if the adjacent corner would have the same kind of construction. Jeff McGann said the sidewalk will have the rounded corner. He said rather than the sidewalk being way out by the road, it'll be uptight to the building for a safer pedestrian traffic which will then create actual, legitimate parking spaces along Cayuga Street which will mirror across the street. He said across the street will be very similar to what it was when Dr. Dexter was in there and there was actually perpendicular parking in there. He said that is what will exist on the north side of the street when this project is done. Richard Lafond said the west corner will remain the same. Jeff McGann said the west corner is pretty much the same. He said he thinks the dimensions of it changed a little but the rounded corner with the crosswalk will remain the same. Richard Lafond said on the first page it states the premises affected is 143 West Bridge Street. He said they have the wrong address on there. Jeff McGann said it should be 143 West 1st Street. He said it is wrong in the staff report. Mr. Caraccioli said this is a little unusual because they are holding the meeting remotely. He said the nature of what is before the Board is to grant a special use permit for a mixed use building. He said there are a few members of the public on this call. He asked Mr. McCormick, for the record, to describe the nature of the mixed use. Mr. McCormick said the proposed use of the first floor would be a restaurant which would be a combination of coffee, donut, and ice cream. He said the second floor would be two residential uses. He said there would be two apartments. Mr. Caraccioli said this is an unlisted action for SEQRA. He said there was a determination made by the Planning Board that this constituted a negative declaration at the last meeting. He said the ZBA is concurring with the negative declaration as part of its approval process.

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

MOTION MADE BY ZONING BOARD MEMBER: Chairman Clavelli

SECONDED BY ZONING BOARD MEMBER: Mark Brunschweiger

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 20-48

IN THE MATTER OF: Shelly Spaziano

WHEREAS, Shelly Spaziano, owner of property situate in a TN2, Traditional Neighborhood 2 Zoning District in the 1st Ward of the City of Oswego, New York, with address 136 West Schuyler Street, being Tax Map Number: 127.60-05-09, has applied for a Side Area Variance in accordance to Section 280-55(A) of the City of Oswego Code, to allow proposed paved driveway to be located less than three feet (3') from any lot lines in side or rear yards and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 21st day of April 2020 and the applicant having appeared and no one appearing in opposition.

Eric Brezee, representing Shelly Spaziano and Kristina's House of Hope, was present for the discussion, as well as Joe Musumeci. Mr. Brezee said they need to put in a paved driveway to allow for some parking behind 138 West Schuyler Street. He said in order to pave down between the houses they need a variance because they don't have 3 feet on either side of the paved driveway. Chairman Clavelli asked if they can make it contingent on the other two cases passing. Mr. Caraccioli said this is a combined effort. He said he thinks they can make it a conditional approval just so they are not getting out ahead of themselves. He said the driveway they are talking about is between the two properties that are the subject of this action. Jeff McGann said that is correct. He said it'll be west of 136 and east of 138. He said it is kind of a narrow alleyway. He said the setback for a driveway from a property line is 3 feet. He said that does not allow them enough room to get the driveway in without a variance from both properties. Mr. Caraccioli said they can make it conditional on the approval of the other cases. Chairman Clavelli said they can add that at the end for contingencies. Mr. Caraccioli said the Planning Board gave a favorable advisory and did approve the site plan for this project. Chairman Clavelli asked if there was anyone in the audience that would like to speak and Councilor McBrearty came forward. Councilor McBrearty said she had a chance to speak with Shelly and members of the Board for Kristina's House of Hope. She said she also had an opportunity to speak with residents in the neighborhood. She said she does support the group home and they need the services in the community. She said having read their business plan she thinks they have a good strategy to minimize the negative impact they could have on the neighborhood. She said she also wanted to point out that a special use permit for a group home gives more control over the future of the property and its use than an ordinary single-family rental. She said she thought it was a good idea that they separated out the two properties and only start with one as a group home and implement their business model and capitalize on their success. Anthony Pauldine asked who will be purchasing the house. Mr. Musumeci said

Kristina's House of Hope is purchasing the 138 property. Anthony Pauldine asked if Kristina's House of Hope is a nonprofit. Mr. Musumeci said Kristina's House of Hope is a certified nonprofit with a 501(C)(3) filed with the IRS as a legitimate nonprofit. Jeff McGann asked if 136 is also Kristina's House of Hope. Mr. Musumeci said it is still part of the two package Kristina's House of Hope. He said based on their accountant it is perfectly legitimate to have the other property under Kristina's House of Hope as a nonprofit. Anthony Pauldine said he attended the Planning Board. He said at that time there was a change in the plan and it was stated that the use of 136 was going to be as a college student type of rental as it was before. He said that is what he reads in the information that was sent to him in the packet also. He said at the Planning Board it was stated that the usage of 136 is actually going to be to transfer people from 138 as part of the program. He said he would like to get some clarification because he knows that in 138 there were stipulations that were addressed as far as security and monitoring. He said if this is going to be a transfer of women from 138 to 136 and it is going to be nonprofit then why are they not asking for the same restrictions for parking and security and so on. He said it seems like they have two things going on here. He said they are stating that they are going to rent it as it was before to everyday people and college students and on the other hand they are stating that they are going to use it for the nonprofit. Mr. Bresee thanked him for the opportunity to be able to clarify that. He said the intention for 136 is to be a standard rental permit renting to ordinary people as stated in the application. Anthony Pauldine asked if their viewpoint had changed from the Planning Board. Mr. Bresee said he is clarifying a piece. Chairman Clavelli said if 136 is going to be rented to standard everyday people would that still constitute as a nonprofit. Mr. Bresee said their understanding from the discussion at the Planning Board was that it would be determined by the assessor and would likely be taxable. Jeff McGann said he is a little bit confused. He said at the Planning Board he thought they said it was a graduation house from 138 to 136. Mr. Bresee said he is the one that botched this up at the Planning Board with his presentation. He said he is clarifying that the intention for 136 is for a standard use permit renting to ordinary people as stated in the application. He said they will help people that are part of the group residence find more permanent housing wherever that might be. He said that will be part of their goal to work with them to get into forever homes. Mr. Caraccioli said he stated this publicly on the record previously but he will state it again that he has been asked to assist Kristina's House of Hope with the purchase of these properties. He said he is without an assistant city attorney to cover this meeting. He said he simply doesn't have one. He said he needs to state that 136 West Schuyler would not necessarily preclude someone from 138 West Schuyler from renting 136 as essentially a step down form of permanent housing in the community. He said that has always been his belief and that is what he has operated under so if it is not that way he would want clarification. He said this thing has ping-ponged back-and-forth at every meeting and he thinks they have confused the public on what the extent and purpose of the two houses are. He said when you confuse the public you create a lot of suspicion in the community. He said he wants it clarified here and now will a resident of 138 West Schuyler Street potentially be a tenant of 136 West Schuyler Street. Mr. Bresee said he would say yes. He said he doesn't see how they can discriminate against them from being able to rent at that location. He said 136 will not have 24 hour staffing like 138 will. He said it won't be a group residence. He said it has to be a regular rental. Mr. Caraccioli said he tends to agree with that from a legal perspective. He said he does

believe that 136 owned by Kristina's House of Hope and used as a rental generating income that is above and beyond the scope of their nonprofit purpose would be taxable. He said ultimately that is the assessor's decision. He said if the assessor sought his counsel he would absolutely say that is a taxable piece of property as distinguished from 138 that is a group residence. Anthony Pauldine said he would like to share some of his concerns. He said the tax status isn't really a standing for the Board to determine. He said initially the certification from the Planning Board was to use both homes as group homes. He said then it was changed with verbiage that it was going to be college students. He said then it was going to be an extension of Kristina's House of Hope and they would move women from one home into the other and now they are backtracking on that. He said has a problem with this. He said should this pass, he would be enraged if things were shuffled around and it melded into one conglomeration instead of being upfront and going to the Board for both houses. He said it makes the public and himself extremely suspicious and he inherently doesn't like it because of that. Mr. Musumeci said he can understand the confusion. He said he wanted to clarify the full transparency of the corrected documentation that went to the Planning Board indicated a variety of regular rental people – college kids, family, and people from 138 that would be classified as regular rental people. He said even DSS only funds that as a regular rental. He said it is not a shelter and is not designed to do what 138 does at all. He said they fell into the opportunity to buy a dual property. He said it was always intended to only have one early transition like 138. He said when Shelly was out of the country he and Eric didn't explain that transition. He said that is where the confusion started. He said they rectified that by going to the Planning Board several weeks ago with documentation. He said Eric didn't really misspeak. He said Eric said a regular woman could be in that place when they are nine months to a year or two of sobriety but they are regular people at that point. He said it would be no different than putting anyone else there. He said they would be paying rent as opposed to subsidized by DSS. Jeff McGann said he doesn't think anyone is questioning that this type of group home could be valuable to the city. He said they received several letters of support for Kristina's House of Hope and some were troubling because they stated that the Boards were blocking this from happening and putting unreasonable requests on it. He said he thinks it is completely opposite of that. He said he thinks the Boards have been more than fair in doing their due diligence. He said he spent a lot of time trying to prepare Shelly for these Boards with the changes. He said he thinks what they are expressing is the confusion about the changes. He said they came back to the Planning Board two weeks ago and things are a little bit different this time. He said these Boards work independently but they coincide with each other. He said the Planning Board passes it on to the Zoning Board based on what is presented to them. He said the Zoning Board gets it and if the wording is different or something else is said, it causes confusion. He said he doesn't think anyone is questioning Shelly or that this type of thing is necessary. He said the confusion is just in all the changes. Mr. Bresee said he feels responsible because he feels he was part of the problem with creating some of the confusion. He said there was no intention to try to get one under. He said he wants to be as transparent as possible in stating that they are seeking the group residence status on 138 and a regular rental permit on 136. He said going through this process they evaluated their capacity as an organization and they said what can they do well. He said they said let's focus on getting one group residence up and running and do that well and make sure they can prove to the City that they are going to be able to deliver

on everything. He said they would like the flexibility of 136 being a regular rental property so they can keep it functioning and with the opportunity to house women that are in recovery that are stable and not at a level that are in need of a group residence. He said these women would be sober. He said they would like to have that option. He said they would also like to be able to rent that to someone that is not in recovery if they need to keep that income. He said they understand that might mean that they would have to pay taxes. He said when he was speaking at the Planning Board he may have overemphasized about having the availability for women from 138 go to 136. He said what he is hoping is to have absolute clarity here in what they would like to do and that is what he just said. Jeff McGann said he doesn't think anyone is accusing him of trying to deceive them. He said things have changed a lot. He questioned what it would mean for the tax issue leaving it open to renting to a family or going from 138 to 136. He said if they start out with a family of four in there and that is taxable. He said then their lease runs out in six months or a year and then they move people from 138 in there and it is part of Kristina's House of Hope are they then trying to be tax exempt. He said there are a lot of variables there. Mr. Musumeci said Jeff McGann has been outstanding in helping them. He said if they look at the entire picture from when they came in February until right now they have only made one major change which is instead of both houses doing what 138 is doing they are now just doing 138 the way they originally described. He said all the rules still apply to 138 with no difference than was originally approved back in February. He said they just dropped 136 and made it a regular rental. Anthony Pauldine said it is confusing. He said he thinks there's a great need for this in the City of Oswego. He said he looks at this and he says they are not Oswego Health, they are not the hospital, they are not OCO, they are not social services. He said they are a new start up. He said maybe there is one major issue but it has been volleyed back-and-forth with a lot of changes and learning how to navigate the system to create what they want to create. He said while there is a need, he sees vacillation and easy changes and that is what makes him skeptical and wonder is it going to vacillate once they get in there and change the usage of 136. He said if they get more than four people in 138 and they want to move some people over and start using 136, they would have to go back to the Zoning and Planning Board to start from scratch to get a proper approval to use that residence. Mr. Musumeci said they believe that would be the case. He said if they were to change that property status they would be transparent and would come back. Mr. Caraccioli said that would be a change in use and it would be seeking another group residence and at that point they would be required to come back to the Planning and Zoning Boards for that determination. He said he doesn't necessarily want to have everyone overthink this. He said the applicant made a choice to apply for a group residence at 138 and not 136. He said 136 would be a normal rental property. He said if it turned into a group residence without permission they would be subject to enforcement by the city. He said if they wanted to change the use to a group residence they would need to come back to the City for that approval. He said that is the decision he is hearing they are making and he has no qualms with that. Anthony Pauldine said at the Planning Board it was clear that the usage was going to be for women from 138 to move to 136. He said if what they are saying is that they totally misspoke and it has to be changed he wouldn't want to see them revert back once they had ownership. Chairman Clavelli thanked Mr. Caraccioli for bringing up that a person could graduate from 138 and go to 136 and it would still be a rental property. Mr. Caraccioli said it is somewhat unusual that you have two properties right next to

each other owned by the same group - one being used for one purpose and one being used for another. He said if 136 were located anywhere else in the community he doesn't think they would be having this level of debate about this project. He said from the organization's perspective there was an opportunity to purchase two properties and they just happen to be right next to each other. He said he doesn't think it is inappropriate for an organization to have a more acute level of care for their most vulnerable folks and then have a separate place where people that graduate from the group home find a more permanent residence. He said it just happens to be next-door or potentially could be next-door. He said frankly it could be in any one of our neighborhoods. Connie Ryan said they are talking about allowing a variance which is going to include a deeper commitment to the properties involved. She said if there's a question about what they are going to do with 136 and it is going to be just a regular property and the variance is granted to allow all the parking to allow all of this plan to evolve, what are they going to do next. Mr. Caraccioli said the variance is for a driveway that is between the two properties which are going to be owned by the same entity. He said in any other situation the owner of 136 would have to go to the owner of 138 and the Board would want to know how their neighbors felt about it. He said if there were legitimate and significant concerns they would have to try to work it out. He said in this case it is the same owner that is seeking this variance. Chairman Clavelli said couple years ago they approved the same 3' line when a gentleman owned the properties next to each other. Jeff McGann said with the same owner owning two properties side by side it is not uncommon that they would need a variance from both properties to either tie a driveway together to both properties or to be able to get a driveway wide enough. He said they are looking at three cases - two variances and a special permit. He said the variances on both properties are probably the lesser of the three cases by far. He said if a different landlord was to purchase those properties and wanted to do the same thing it would probably fly right through. He said it is a pretty common practice. Connie Ryan said her only question is moving toward the future what the legal implications are. Chairman Clavelli said he would say if a future owner didn't want it he could dig up his side. Jeff McGann said the variance goes with the property. He said if they were to decide a couple years down the road to sell 136, it would be disclosed that there was a variance and it would be addressed at the time of closing. Mr. Caraccioli said it becomes a buyer and seller issue. He said if the owner of 138 goes to sell 136 and finds a buyer with their eyes wide open then good for them. He said maybe they would not find a buyer because of the situation. He said they need to look at this in the present because the applicant is asking for it. He said the applicant owns both properties and they are bound by what they are asking for. He said if they can't find a willing buyer then they have no one to blame but themselves. He said he doesn't think it is a basis for denying a variance because the applicant may regret what they are asking for. Connie Ryan said she just wants the applicant to know this could be a probable issue in the future. Mark Brunschweiger asked if they could stipulate that the special permit is not transferable in case the house gets sold and someone has a group residence permit in their hands and they have no control over it. Mr. Caraccioli said typically the special permit goes with the property and use. He said a future buyer would have to demonstrate that they are a group residence. He said group residence has a specific definition within the zoning code. He said he thinks they could put a stipulation in that the special permit is only transferrable to an in-kind type of purchaser. He said if they decided to abandon the group residence, they could market it as a group

residence. He said someone that is purchasing this would have to operate it that way. He said otherwise they would have to obtain a new permit from the Zoning Board to operate as a group residence. He said if it is the will of the Board to make it specific to Kristina's House of Hope then he thinks they can make that a condition. Chairman Clavelli asked if there were any questions from the public and no one came forward.

RESOLVED, that a Side Area Variance be granted to allow proposed paved driveway to be located less than three feet (3') from any lot lines in side or rear yards contingent on case #20-51 passing.

MOTION MADE BY ZONING BOARD MEMBER: Chairman Clavelli

SECONDED BY ZONING BOARD MEMBER: Mark Brunschweiger

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 20-51

IN THE MATTER OF: Shelly Spaziano

WHEREAS, Shelly Spaziano, owner of property situate in a TN2, Traditional Neighborhood 2 Zoning District in the 1st Ward of the City of Oswego, New York, with address 138 West Schuyler Street, being Tax Map Number: 127.60-05-08, has applied for a Special Use Permit in accordance to Section 280-13(B) of the City of Oswego Code, to allow proposed group residence and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 21st day of April 2020 and the applicant having appeared and no one appearing in opposition.

Chairman Clavelli said this special permit is only for Shelly Spaziano. Mr. Caraccioli said if the intent is to make this a special condition of the special use permit then the group home designation is not transferrable without the consent of the Zoning Board.

RESOLVED, that a Special permit be granted to allow proposed group residence with the condition that the special permit is not transferrable without the consent of the ZBA.

MOTION MADE BY ZONING BOARD MEMBER: Chairman Clavelli

SECONDED BY ZONING BOARD MEMBER: Mark Brunschweiger

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 20-52

IN THE MATTER OF: Shelly Spaziano

WHEREAS, Shelly Spaziano, owner of property situate in a TN2, Traditional Neighborhood 2 Zoning District in the 1st Ward of the City of Oswego, New York, with address 138 West Schuyler Street, being Tax Map Number: 127.60-05-08, has applied for a Side Area Variance in accordance to Section 280-55(A) of the City of Oswego Code, to allow proposed paved driveway to be located less than three foot (3') from any lot lines in side or rear yards and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 21st day of April 2020 and the applicant having appeared and no one appearing in opposition.

Anthony Pauldine said he should have brought this up earlier but he wanted to make sure that this is under the assumption that the other stipulations from the Planning Board as far as how it is operated and the security systems are all still in place. Mr. Caraccioli said the Planning Board did adopt the site plan with various conditions related to security and supervision. He said those would all be part of the site plan and incorporated by reference into the special use permit.

RESOLVED, that a Side Area Variance be granted to allow proposed paved driveway to be located less than three foot (3') from any lot lines in side or rear yards.

MOTION MADE BY ZONING BOARD MEMBER: Chairman Clavelli

SECONDED BY ZONING BOARD MEMBER: Mark Brunschweiger