

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

May 15, 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 Karen Fitzsimmons, unanimous approval.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-55

IN THE MATTER OF: Michele P. Southgate

WHEREAS, Michele P. Southgate, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 4 Prospect Street, being Tax Map Number: 146.31-05-02, 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 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

Michele Southgate was present for the discussion. Ms. Southgate said she is a professional artist and her art supplies and work has grown beyond keeping it in her house. She said she would like to turn her garage into an art studio. She said it would be for work only. She said it is not a retail space. Frank Clavelli, Jr. asked if she sells pieces. Ms. Southgate said she does but usually from exhibitions or she might have a commission where she would go to someone's home and they would explain what they want and she would bring it back to them. Mr. Caraccioli said a home occupation is allowed by special permit. He said it needs to be carried on only within the dwelling or accessory building. He said it can be equivalent to only one-third of the ground floor area of the dwelling. He asked how big her house is. Ms. Southgate said 1500 square feet and it is a small garage. Mr. Caraccioli asked if anyone else is going to be assisting her. Ms. Southgate said no. Mr. Caraccioli asked if all equipment will be stored inside. Ms. Southgate said yes. Mr. Caraccioli asked if there will be any merchandise for sale on the premises. Ms. Southgate said no. Mr. Caraccioli said home occupations do include artists. Chairperson Sweet said under 280-24(A) home occupation is acceptable in an R3. She said artist falls under the description of home occupation. She said the next consideration would be the requirements for a special permit. She read the following from 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.” Mr. Caraccioli asked if there will be an outdoor sign. Ms. Southgate said no. 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. Jim Bell said she told him that she is commissioned by people to perform art projects. He said she is trying to create space to do it and have some of her home back. He said it is not for clients to come in and out. Mr. Caraccioli said the principal dwelling use isn’t going to change but they are adding a home occupation. He said it says no to usage change but he would say to add home occupation/artist.

RESOLVED, that a Special Permit be granted to allow a home occupation.

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: 18-60

IN THE MATTER OF: Jeff Holbrook

WHEREAS, Jeff Holbrook, owner of property situate in an Industrial, IN Zoning District in the 2nd Ward of the City of Oswego, New York, with address 305½ East Seneca Street, being Tax Map Number: 128.27-01-06, has applied for a Special Permit in accordance to Section 280-39(C) of the City of Oswego Code, to allow for a 31,067 sf. retail space and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

Rod Ives of Napierala Consulting was present for the discussion. Mr. Ives said they are the civil engineers for Mr. Holbrook's project. Mr. Caraccioli said Mr. Holbrook appeared before the Planning Board at the last meeting. Mr. Ives said Mr. Holbrook is looking for a special permit to allow retail use within the industrial district. He said he has a vacant building and there is interest to split it into different retail spaces. He said right now he is looking at four separate retail spaces. He said they are looking at creating a 97 car parking lot to support that. He said they will repurpose the building and there will be no demolition. Frank Clavelli, Jr. asked if this will be done within a year. Mr. Ives said yes. He said he has interest now in two of the spaces. He said he would guess the goal would be to open next spring. He said they would do the site work this summer. He said there isn't much grading that needs to be done. He said they wouldn't pave until he was ready. Chairperson Sweet asked what type of retail would be there. Mr. Ives said one is a wholesaler and the other is an automotive parts store. Chairperson Sweet asked if there was a traffic study. Jim Bell said they are wholesalers so it is typical of the traffic he had previously. He said they had multiple tractor trailers daily with Novelis and that isn't happening anymore. He said this would be a decrease from what he was previously allowed to do. Frank Clavelli, Jr. said it cleans up the whole front yard. Anthony Pauldine asked if the auto store is going to be retail. Mr. Ives said yes. Frank Clavelli, Jr. asked if he could put a bar there if it was approved. Jim Bell said no. He said it would be retail sales. Mr. Ives said given the neighborhood the retailers will probably be on an industrial slant. Chairperson Sweet said it is Mr. Holbrook's discretion who he brings in there. Mr. Ives said yes. He said he only has two spaces lined up. Mr. Caraccioli said at the Planning Board meeting Mr. Holbrook was less forthcoming than Mr. Ives has been tonight perhaps because the deals were still in the works. He said retail sales specifically exclude adult bookstores, adult video stores and adult uses. He said it includes department stores, clothing stores, sporting goods stores, shoe stores, drugstores, appliance stores, furniture stores, electronic merchandising stores, liquor stores, bookstores, grocery stores and other like stores and similar businesses. He said it

specifically excludes auto body repair businesses, small engine repair, automotive repair, outboard motor repair, construction equipment repair, heavy maintenance for truck businesses, repair for truck businesses, gasoline service stations, and amusement arcades. He said it wouldn't exclude auto body sales or small engine sales. Jim Bell said repair is one of the permitted uses in an industrial zone and he is asking for retail sales. Frank Clavelli, Jr. said if this gets approved there are rules on what he can put in there. Anthony Pauldine said he wasn't at the Planning Board so this is all new to him and this isn't the person applying for this. Mr. Ives said the tenants that he is going to find that will want this space will be low traffic generators. Frank Clavelli, Jr. said this road is the road to Novelis, Nine Mile and Fitzpatrick. He said he can't imagine what store would come there to create more traffic than what is already created by those three businesses. Mark Brunschweiger said the traffic going out that way is early in the morning when retail wouldn't be open. Frank Clavelli, Jr. asked if he had to make this a separate address. Jim Bell said it was a separate tax map. Chairperson Sweet said she wishes Mr. Holbrook would have appeared before them. Anthony Pauldine said his concern is when the Board turns away people for exactly the same circumstances. He said if that is the way they want to do it then going forward they can't turn away other people. Chairperson Sweet asked if there is a reason Mr. Holbrook isn't here tonight. Mr. Ives said he received a call from the architect asking him to be here tonight. He said he has represented owners numerous times. Chairperson Sweet said when a Board asks questions it is a matter of record. She said he can't agree to something for Mr. Holbrook. Mr. Caraccioli said he would feel more comfortable if there was a letter from Mr. Holbrook saying he gives full authority to Mr. Ives. Anthony Pauldine said he is concerned with setting a precedent. Chairperson Sweet made a motion to table Case #18-60. Motion seconded by Anthony Pauldine, unanimous approval. The case was revisited when Jeff Holbrook appeared. Chairperson Sweet asked if he knows what he is looking for in the retail space. Mr. Holbrook said a lot of this project was sparked on speculation. He said he went to the State of the City Address and liked what he heard. He said the eastside corridor is filling up. He said there is a major auto parts store that is interested in the eastside of the building. He said the rest are prospective tenants and nothing definite. He said they lost their storage contract with Novelis. He said they have 400,000 square feet out there that they are doing nothing with. He said eventually he thinks a greater part of the industrial zone is going to switch over. Chairperson Sweet asked if it gets larger will he consider doing a traffic study. She said what if it becomes a mini-mall. Mr. Holbrook said they were doing 70 tractor trailers a day. He said that is now gone. He said they will need a lot of cars to get that back. Chairperson Sweet asked if there was anyone in favor of this application and Councilor Tesoriero said he is in favor. She then asked if there was anyone opposed to this application and no one came forward.

RESOLVED, that a Special Permit be granted to allow for a 31,067 sf. retail space.

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

SECONDED BY ZONING BOARD MEMBER: Mark Brunschweiger

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-63

IN THE MATTER OF: Lance Pezzlo

WHEREAS, Lance Pezzlo, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 37 Murray Street, being Tax Map Number: 146.24-03-22, has applied for a Special Permit in accordance to Section 280-24(N) of the City of Oswego Code, to allow a new two-family dwelling and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

Lance Pezzlo of 44 Tallman Street was present for the discussion. Mr. Pezzlo said the site is on the corner of Ellen and Murray Streets. He said it used to be an old bar that burned down. He said he would like to put a two-family duplex there. He said there would be one apartment up and one down. He said he will put some green space in the front and a driveway in the back. Chairperson Sweet asked if this will be investment or owner occupied. Mr. Pezzlo said investment. Frank Clavelli, Jr. asked if it will be the same footprint. Mr. Pezzlo said he doesn't know what was there but this will be 26x26 with some porches. Frank Clavelli, Jr. asked if it will be similar to the Potter's Pub. Mr. Pezzlo said yes. Karen Fitzsimmons asked if he would be starting soon. Mr. Pezzlo said towards the end of the summer. He said it would probably be ready to go in the spring. Chairperson Sweet asked if there was anyone in favor of this application and Councilor Tesoriero came forward. He said Mr. Pezzlo does quality work throughout the city. William Jones of 32 Gerritt Street said he would like to see something built there. Diane Cole of 40 Murray Street came forward with questions. She asked if it is going to be a two-family with one bedroom each. Mr. Pezzlo said yes. She asked if it would be two to three people per apartment. Mr. Pezzlo said it won't be three. He said it is going to be for professionals. She questioned about the parking. Mr. Pezzlo said it is going to be on the Ellen Street side behind the house. Ms. Cole said she thinks this is awesome. Chairperson Sweet asked when he will start it. Mr. Pezzlo said he will start digging in August and it would take 2-3 weeks to frame it. Chairperson Sweet read the criteria for an area variance.

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.

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.

RESOLVED, that a Special Permit be granted to allow a new two-family dwelling.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-64

IN THE MATTER OF: Lance Pezzlo

WHEREAS, Lance Pezzlo, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 37 Murray Street, being Tax Map Number: 146.24-03-22, has applied for a Front Yard Setback Variance (Murray Street) in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a new two-family dwelling and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 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 new two-family dwelling.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-65

IN THE MATTER OF: Lance Pezzlo

WHEREAS, Lance Pezzlo, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 37 Murray Street, being Tax Map Number: 146.24-03-22, has applied for a Front Yard Setback Variance (Ellen Street) in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a new two-family dwelling and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Front Yard Setback Variance (Ellen Street) be granted to allow for the construction of a new two-family dwelling.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-66

IN THE MATTER OF: Lance Pezzlo

WHEREAS, Lance Pezzlo, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 37 Murray Street, being Tax Map Number: 146.24-03-22, 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 new two-family dwelling and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 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 new two-family dwelling.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-67

IN THE MATTER OF: Lance Pezzlo

WHEREAS, Lance Pezzlo, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 37 Murray Street, being Tax Map Number: 146.24-03-22, has applied for a Minimum Lot Area Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a new two-family dwelling and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Minimum Lot Area Variance be granted to allow for the construction of a new two-family dwelling.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons

OLD BUSINESS:

William Jones of 32 Gerritt Street was present for the discussion. He said he lives across the street from Sarah Hoefer. He said the Board told her to stop all classes. He said she put curtains up over her windows and the classes have increased. He said she got a letter on April 20th telling her to cease and desist and the classes have increased in size. He said there have been 10 cars out in front of his house. He said people get out dressed in workout attire. He said he can hear her teaching classes in there. He said he has been putting up with this for the past three years. Jim Bell said they have sent her a letter. He said Mr. Jones has sent him many emails. Mr. Jones said 26. Jim Bell said there is no restriction with parking on the street. He said it is difficult for him to prove that she is doing it without actually being there and hearing it. He said the majority of classes are early. Mr. Jones said she also has a class at 5:00. He said the same cars are there that were there before they told her to stop the classes. Chairperson Sweet asked if he is going to have a hearing. Jim Bell said he will have to have a hearing. He said the response he has gotten is they are not performing classes. He said she stated there are many different things in which she is involved with her kids and she frequently has people over. He said she is out of town right now. Mr. Jones said she is back because she had class today. Jim Bell said he hasn't had any direct correspondence with Mrs. Hoefer yet. Chairperson Sweet said there is a process. She said the order has been issued. She said now Jim Bell may schedule an administrative hearing. She said she may come or she may not. She said all the neighbors have a right to write letters and come to the hearing because it is fact finding. She said he will take the fact finding and make a determination based on the facts presented to him. She said at some point it can go to city court. She said the process has started but it is a long one. Anthony Pauldine asked if the Board has anything to do with this after the meeting when she asked for permission and it was denied. Mr. Caraccioli said not at this point in time. He said she withdrew her application without prejudice. He said she was required to make another application. Jim Bell said she did. He said she couldn't be at this meeting because she was out of town. Mr. Caraccioli said she is still operating in violation of zoning regulations. Mr. Jones said he has been confronted by some of her clients and they have said they are doing a book club now. Chairperson Sweet said Jim Bell can go there and inspect. Jim Bell said yes but not at 6:00 a.m. Anthony Pauldine asked if the Board is authorized to take any action. Mr. Caraccioli said he doesn't believe there is anything that gives them any type of independent enforcement action. He said that is the purview of the code office. He said as they pointed out there are options. He said there is a whole process but it takes time. Anthony Pauldine said he is sympathetic and he is glad to know the information but unless the applicant comes back to the Board he doesn't know if there is anything they can do. Chairperson Sweet said she is in violation with the city with the zoning code. Jim Bell asked if he needs an administrative hearing to perform an inspection. Mr. Caraccioli said he has an independent right to inspect. Chairperson Sweet said there are penalties that can be imposed. She asked if she has still has an application. Jim Bell said she turned in an application but she knew she wouldn't be here for the May meeting. Chairperson Sweet said this is still part of fact finding. She said they didn't take any action on her application. Mr. Caraccioli said she withdrew her application so there is nothing pending before this Board. He said the neighbor has come and brought to the Board's attention ongoing violations which are the authority of the code department. Jim Bell said the

difference in this application is it is one on one. Chairperson Sweet asked Mr. Caraccioli if they have to disregard this. Mr. Caraccioli said they will look at all of it. He said the notes even say they appreciate what she does but they don't see a way around the classes. He said if there was only one car once in a while probably no one would even know the difference. Mr. Jones said he wouldn't mind one car. Chairperson Sweet said there is a process and Jim Bell is following it. Mark Brunschweiger said she withdrew the application without prejudice. He asked how this discussion they just had affects that. Mr. Caraccioli said they are not required to forget everything they have heard.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-54

IN THE MATTER OF: Stephen M. Baker, O.D. PLLC

WHEREAS, Stephen M. Baker, O.D. PLLC, owner of property situate in a Neighborhood Business, B1 Zoning District in the 5th Ward of the City of Oswego, New York, with address 357 West First Street, being Tax Map Number: 128.71-04-12, has applied for a Side Yard Setback Variance in accordance to Section 280-31(A) of the City of Oswego Code, to allow for the construction of a 6'x9' deck and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 15th day of May 2018 and the applicant having appeared and no one appearing in opposition.

Dr. Stephen Baker of 27 Regan Drive was present for the discussion. Jim Bell said they have created two patios that will be elevated. He said because there are at the height they are they are going to require a setback variance of the side yard. He said the requirement is 12' and he has zero. He said it is right on the line as is the building. He said he only needs the variance for one deck. He said the other one meets the requirements. Chairperson Sweet asked if this is for living space. Dr. Baker said yes. 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.

RESOLVED, that a Side Yard Setback Variance be granted to allow for the construction of a 6'x9' deck.

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

SECONDED BY ZONING BOARD MEMBER: Karen Fitzsimmons