

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
MAY 15, 2012**

MEMBERS PRESENT: James Stevenson, Chair
Albert Gionet, Vice Chair
Robert Haley, Secretary

ALTERNATES PRESENT: Armando Darna (sitting)
Sandra Stough
Michael Stebe (sitting)

ABSENT: Edward Slegeski

ALSO PRESENT: James Davis, Zoning Enforcement Officer
Mark Pellegrini, Director of Planning
John Sullivan, Assistant Town Attorney
Ginger MacHattie, Recording Secretary

The Chair opened the Public Hearing at 7:01 p.m. The Secretary read the legal notice for the application when the call was made.

MICHAEL GRAMEGNA – application #2012-046 – an appeal of the Zoning Enforcement Officer’s order of remedy to cease using the property as an illegal rooming house – 122 Oakland Street, Residence A zone.

Mr. Michael Gramegna, 65 Shoddy Mill Lane, Bolton, said he did not agree that 122 Oakland Street is being called a non-permitted rooming house. He said it is a two-family house and he did not have any way to stop using it as that. Mr. Gramegna said he agrees with the things said in the documents except for a couple issues he has on a form he received in the mail. The Town of Manchester has an ordinance that says five unrelated people are considered a family, so he has rented this property to five unrelated people on each floor. He has ten unrelated people living at the property, which is a two-family property.

Mr. Gramegna said he did use the basement at one time. There are only four bedrooms on the first floor; the basement was the fifth bedroom at that time. There are only four bedrooms on the first floor plus a living room. He said there was an order made on July 28, 2005 to restore the attic area. Mr. Gramegna said he disagreed with that order. The attic is still in the same condition as it was then.

Mr. Gramegna said he is in the process of talking with Greg Smith, the Town’s chief building official, to have the attic used as habitable space for the second floor, which is what he was trying to do by using the basement in conjunction with the first floor unit. He said he did not see how the home was being labeled as a rooming house when it is not a rooming house by definition.

Mr. Stevenson referred to a memorandum dated April 19, 2012 from Mr. Jim Davis, the Town's zoning enforcement officer. An inspection was completed by Mr. Davis and he found a third floor kitchen, bathroom, common room, and two bedrooms. Mr. Stevenson said there has been no application to the Building Department or to the Zoning Board of Appeals to use that third floor as livable space. Mr. Gramegna said he is not using it now and has not been using it for at least six months.

Mr. Stevenson asked if the attic has been gutted as the order said. Mr. Gramegna said the kitchen and bathroom were not physically removed from the third floor but the area was not used. Mr. Gramegna said his building was built in 1890. No plans were ever submitted to the Board because the house was built before there was a Board. The house has been remodeled. In response to a question from Mr. Stevenson, Mr. Gramegna said he did not obtain permits for painting or tile work and did not know when the work was done in the attic.

In response to a question from Mr. Stevenson, Mr. Gramegna said the bathroom was put in the attic before he bought the property. He bought the property in 1999 and he did not know what was done prior to him taking ownership. There were no permits on this property. The Town did not even have a plot plan or drawing of the property, he said.

Mr. Stevenson said the Board would not know when the third floor was renovated into livable space, but that is not legal in the Town of Manchester. Mr. Stevenson said Mr. Gramegna needs to gut the attic and take all the fixtures out. Mr. Gramegna said there is no order for that anywhere. Mr. Stevenson responded that it needs to be done because that is illegal space.

Attorney John Sullivan, Assistant Town Attorney, explained that the primary problem is the individual rooms with individual locks, which constitutes a rooming house under the definition of the zoning regulations. He said Mr. Gramegna did not dispute the facts on the zoning officer's order, and it is clear that what Mr. Gramegna is doing is not permitted under the zoning regulations. Attorney Sullivan explained that his appeal does not have merit. The applicant is relying on Section 242-13, Section 8 of the Town Ordinances, the Property Maintenance Code. Attorney Sullivan explained when the property maintenance code was adopted by the Board of Directors in 1996, there was a section called the savings clause, Section 242-2, which says "...this code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof..." Mr. Gramegna is misinterpreting that the property maintenance code permits him to do something that the zoning regulations say he cannot do. Attorney Sullivan said the Zoning Enforcement Officer was correct in giving his order.

Mr. Davis explained that he completed an inspection with the Mr. Smith and the Eighth Utilities District Fire Marshal. They identified various areas with locked doors, creating separate units. He took photographs and displayed them for the Board. The photos showed locks on doors, the basement with a sleeping area including a bed and crib, additional sleeping areas in the basement, and a kitchen area for the unit in the basement. On the first floor, two of the five doors were locked sleeping rooms. The second floor had a common bathroom, and the attic contained a large sleeping area and a bathroom. Mr. Davis tried to address the most immediate concerns such as the smoke detectors and alarms. An order was issued in 2005 due to a similar situation. At that time there were locked sleeping rooms on the first and second floors. Since 2005, the basement area has had more work done to it, he said.

Mr. Davis referred to letters and documents provided to Board members. Included in those documents is an agreement that includes a timeline. Part of that agreement was removing the locks on the bedroom doors. As the pictures showed, the locks were either never removed or were replaced.

In response to a question from Mr. Stevenson, Mr. Davis said there is a letter dated July 29, 2005 from Attorney O'Neil to the applicant with dates that certain resolutions were to be completed by. The agreement was signed by Attorney O'Neil and the applicant. Mr. Davis said there was an application in 2005 for a variance to occupy the third floor, but it was rescinded by the applicant. In response to a question from Mr. Stevenson, Mr. Davis said part of the agreement was the attic space could remain at that time but could not be used as rooming units. He clarified that the PZC recently amended the zoning regulations to allow third floor occupancy in certain circumstances.

Chairman Stevenson asked any member of the public that wished to comment either in favor of or in opposition to this application to come forward at this time. No member of the public wished to comment.

Mr. Gramegna said there was an agreement with the Town that nothing had to be removed in the attic. He said the door locks were never changed because that was never part of the stipulation; they have been there since 2005. No additional work has been done on the property since 2005. Mr. Gramegna said his tenant made the decision to put a crib in the basement. Mr. Gramegna referred to a program run in the facility. In response to a question from Mr. Stevenson, Mr. Gramegna said he rents to adults with a common goal. They are watching after each other while trying to be more responsible adults.

In response to a question from Mr. Stevenson, Mr. Gramegna explained he has a separate lease for each individual that comes into the property. His tenants apply for the program and there are rules to follow. He always has five people in each unit. The people he puts in his rental cannot afford a place on their own. Mr. Stevenson asked if Mr. Gramegna has a license to run this facility and was told by Mr. Gramegna that he is not running a rehabilitation facility. In response to a question from Attorney Sullivan, Mr. Gramegna said the tenants sometimes do work for him.

Attorney Sullivan said there is no dispute that the applicant is running a rooming house. Attorney O'Neil would never have made agreements that in any way would allow a rooming house.

Mr. Davis read the definition of a rooming house for the Board. Rooming houses are not allowed in Manchester, he said. The permitted use for this property is a two family house. No more than three unrelated persons can occupy each unit. Currently, each unit has five separate lockable rooms as well as occupancy on the third floor and in the basement. It is possible that the third floor could be used in conjunction with the second floor and the basement could be used in conjunction with the first floor, so long as the spaces conform to building and fire codes.

The public hearing portion of the meeting was closed at 7:36 p.m.

I certify these minutes were adopted on the following date:

Date May 30, 2012

James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN
 BE HEARD IN THE PLANNING DEPARTMENT.**

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