

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
SEPTEMBER 28, 2016**

MEMBERS PRESENT: James R. Stevenson, Chair
Albert Gionet, Vice Chair
Robert Haley, Secretary
Edward Slegeski
Armando Darna

ALTERNATES PRESENT: John Topping
Matthew Peak

ABSENT: Sandra DeCampos

ALSO PRESENT: Renata Bertotti, Senior Planner
James Davis, Zoning Enforcement Officer
Katie Williford, Administrative Secretary

The Chair opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

FRANCINE REYNOLDS – application #2016-103 – Request a yard variance of Art. II, Sec. 7.02.02 to allow a deck 19.5 feet from the rear property line (30 feet required) at 49 Woodland Street, Unit R, Planned Residential Development zone.

Francine Reynolds of 49 Woodland Street, Unit R, presented her application requesting a yard variance to allow a deck in her back yard. She stated that the proposed deck would be closer than 30 feet to the property line. The footprint of the deck would be the same as the existing concrete slab, she said.

Mr. Gionet asked if Ms. Reynolds would have an umbrella on the proposed deck, similar to what she had on the existing patio. She replied that she would not.

Mr. Slegeski asked if the condominium association was comfortable with the request and Ms. Reynolds confirmed it was. She stated that she had an email from the management company to that effect.

Mr. Haley noted that he had spoken with Ms. Reynolds previously and she had mentioned elderly family members who visit, who have trouble getting down the existing steps. Ms. Reynolds confirmed her elderly uncle has difficulty getting down to the patio. She added that there is no place on her property for her grandson to play outside safely when she is babysitting for him several times a month. Grass will not grow beyond the patio, she said.

Mr. Peak noted that the property abuts St. Bridget Church and asked whether there was a tree line between the properties. Ms. Reynolds provided a photo of the tree line as seen from the deck. She said that when the leaves are gone the church could see her deck through the trees, but it would just be a slightly larger deck. Mr. Peak said he thought the proposed deck might be an improvement visually for the church as compared to the current patio.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. Ms. Elizabeth Phillips of 49 Woodland Street, Unit P, stated that she lives next to the applicant. She said she was in favor of the application if the deck would be located where the existing cement is. She added that the proposed deck would look better from the church than what is there currently.

Ms. Bertotti said there were no outstanding staff comments. The existing structures on the property are not regulated and the applicant did not need variances prior to this, she said.

Mr. Davis clarified that the current structure is not considered a deck; it is stairs and a platform to get out of the building. That type of structure is not considered as encroaching on setback lines, he said.

The public hearing on this application was closed.

SCOTT COOLEY – application #2016-107 - Request a yard variance of Art. II Sec. 5.01.01 to allow a deck 15 feet from the front property line (20 feet minimum required) at 42 Hawthorne Street South, Residence B zone.

Michelle Cooley of 42 Hawthorne Street South spoke on behalf of the applicant, requesting a variance to allow an 8'x8' enclosed deck over the existing porch. The proposed deck would be 5 feet within the setback. Ms. Cooley stated that her son has special needs and she would like to have a chair on the porch for him so he could wait for his bus there. She noted that she had signatures from the neighbors supporting the application.

In response to a question from Mr. Gionet, Ms. Cooley confirmed the deck will not have a roof.

Mr. Stevenson read into the record a letter from Diane Lombardi of 56 South Hawthorne Street, stating that she had seen the plans for the proposed deck, that she supported building the structure, and that she did not feel that the structure would change character of neighborhood. He noted that there were identical letters signed by John Phelps of 43 South Hawthorne Street, Miranda Salazar of 33 South Hawthorne Street, Judith Sutter of 38 South Hawthorne Street, and Karen Frederick of 48 South Hawthorne Street.

Mr. Peak asked Ms. Cooley if the applicant's hardship was that it was difficult to open the door to enter the dwelling. Ms. Cooley confirmed, saying that her son is a large child and she did not want to worry about him falling while trying to open the door. She added that drivers speed through the area. Ms. Cooley said her father in law also had a hip replacement recently and she would like him to be able to hold onto a railing going up the stairs.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. Judith Sutter of 38 South Hawthorne Street, the applicant's next door neighbor, said she had no problem with the proposed deck, and it is dangerous to try to come out on those steps.

Ms. Bertotti stated that there were no staff comments.

MARK HARNOIS – application #2016-108 – Request a yard variance of Art. II Sec. 1.03.04 to allow a shed less than 10 feet high to be located 1 foot from the side property line (3 feet minimum required) at 275 Lake Street, Rural Residence zone.

Mark Harnois of 275 Lake Street presented his application. Mr. Harnois said that in 2008 when the pool was added, the pool company installed it in the incorrect location. The measurements for the location of the shed were based on the location of the pool, so the shed wound up in the wrong location. Poodler Engineering measured and found that the shed is 12 inches from the property line in the front corner, so it is 2 feet closer to the property line than the required 3 feet, Mr. Harnois said. He added that the shed is already built and the apron is already poured around the pool, so the shed can't just be moved to the correct location.

Mr. Gionet noted that the property was 1.25 acres, and asked whether there was any other place to put the shed that would be 3 feet from the property line. Mr. Harnois replied that the yard is sloped and fill would have to be brought in to create a level place to put the shed. In response to a question from Mr. Stevenson, Mr. Harnois confirmed that the topography of his yard was part of his hardship.

Mr. Topping asked if the only way to move the shed would be to chip apart a chunk of the existing concrete apron. Mr. Harnois confirmed that was correct.

Mr. Peak said if the shed was intended to house things for the pool, then if it were moved further from pool it might not work for its intended use. Mr. Harnois agreed and noted that he could not bring in fill and move the shed a few feet because there's a drop off at the back side and the leach fields are there.

The applicant submitted a letter signed by Kathleen Harnois of 285 Lake Street, in favor of the application, which Ms. Bertotti read into record.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said there were no staff comments.

PAUL BOLDOC – application #2016-109 – Request a yard variance of Art. II Sec. 5.01.01 to allow a deck 20 feet from the rear property line (30 feet required) at 28 Jeffrey Alan Drive, Residence B zone.

Paul Bolduc, who lives in Woodstock at 19 Walnut Road, presented the application on behalf of the homeowners. He explained that the house is 7 inches away from the 30' setback and there is an existing 4'x10' deck. The existing patio is too small to set anything out there without creating a hazard by blocking that exit, he said. One of the homeowners has a phobia of rodents and a deck would help because it would be off the ground, Mr. Bolduc said. The deck would be made of composite materials, and would not be an eyesore, he said. Mr. Bolduc noted that the property to the rear is a church and there is a wooded line, so he did not think the proposed deck would be noticed from the church property.

Mr. Darna asked the size of the deck and Mr. Bolduc said that toward the rear, 10' 7" would be the maximum from the actual building line that's not indented.

Mr. Topping asked for clarification of the hardship, noting that rodents could climb up to access the deck. Mr. Bolduc said rodents are not as inclined to run across a deck if it's elevated.

Mr. Gionet asked what the width of the deck from one side to the other would be. Mr. Bolduc said it would be 25 feet. Mr. Gionet asked what the depth of the deck from the building out would be and Mr. Bolduc said at most it would be 10' 7" to get to the 20' line.

In response to a question from Mr. Haley, Mr. Bolduc confirmed that this property has the closest setback of the houses on the street.

Mr. Peak asked if the deck was 2 levels and Mr. Bolduc said there was one step down. Mr. Peak said it seemed that the step down section was the part that was requiring the variance. Mr. Bolduc replied that that was the part that would make it look nice aesthetically. He added that he couldn't build something different that would not require a variance because the house is 7 inches from the setback line.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said there were no staff comments.

TIMOTHY FOX – application #2016-110 - Request a yard variance of Art. II Sec. 4.01.01 to allow an addition to the existing mudroom 8 feet from the side property line (10 feet required) at 18 Devon Drive, Residence A zone.

Timothy Fox of 18 Devon Drive presented his application. The existing deck is 6 feet wide and 10 feet from the property line. The proposed 15'x8' mudroom would be 8 feet from the property line, Mr. Fox said. He said that he needs more space for his growing family.

In response to a question from Mr. Haley, Mr. Fox said the mudroom entrance would be used when carrying things like groceries, because there would be more room. Mr. Haley asked if the proposed mud room was intended to improve the egress because the applicant had trouble getting the baby stroller and things in the house. Mr. Fox said that was correct.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. Ms. Bertotti read into the record a petition received by the Planning Department on September 22nd, signed by neighbors in support of the variance. The variance was signed by neighbors from 12 Devon Drive, 23 Devon Drive, 17 Devon Drive, 22 Devon Drive, and 105 St. John Street.

Ms. Bertotti said there were no outstanding staff comments.

REDEEMED CHRISTIAN CHURCH OF GOD – application #2016-104 – Request a use variance of Art. II Sec. 23 to allow a church at 252 Spruce Street (a.k.a. 254 Spruce Street), Neighborhood Business zone, and a parking variance of Art. IV, Sec. 9.03.13 to allow 15 parking spaces (19 spaces required).

Attorney Stephen Penny presented the application on behalf of the applicant. Pastor Augustine Uwaya of the Redeemed Christian Church of God was also present.

Attorney Penny stated that two variances were being sought: The first request was for a variance to allow place of worship in a Neighborhood Business zone, and the second was to permit 15 parking spaces where 19 are required.

Attorney Penny described the location of the property, 252-254 Spruce Street, and noted that it was the only parcel on block that was zoned Neighborhood Business. Public water and sewer serve the site, and a residence, storefront, and 1983 garage are located on the property, he said. There are bituminous parking areas that provide spaces for 15 vehicles. There are also landscaping and a fence separating the parcel from the residential property to the south, Attorney Penny said.

Attorney Penny stated that the applicant had the property under contract for purchase, and would use all three buildings for religious use. The garage on the southeast would be the church sanctuary, seating 51; the storefront building at the intersection of Eldridge and Spruce streets would be used for pastoral counseling and church committee meetings; and the residential dwelling would be the parsonage. No changes were proposed to the existing building footprints, parking areas, or landscaping, other than the addition of a van accessible handicapped space that would be located closest to the sanctuary. The church would hold Sunday services from 10 a.m. to 12:30 p.m. and bible study on Thursdays from 7 p.m. to 9 p.m. Neither the pastoral counseling nor bible study would conflict with the timing of the Sunday services when the need for parking would be greatest, Attorney Penny said.

Attorney Penny listed the uses permitted as of right and by special exception in the Neighborhood Business zone. He then listed the uses permitted as of right and by special exception in the abutting Residence B zone, where churches and places of worship are permitted by special exception. The proposed use variance would permit a use that would be more compatible with the neighboring residential properties than the present commercial uses are, Attorney Penny said. He noted that places of worship are permitted by special exception in most commercial and residential zones. Attorney Penny then discussed the requirements for places of worship and noted that Spruce Street is a collector street. Attorney Penny said that the parking variance was minor in scope and additional parking was available on Eldridge Street.

In response to a question from Mr. Haley, Attorney Penny stated that 10-15 vehicles transport people to the services at the church's current location. There are currently 51 members of the congregation, he said. Mr. Haley noted that parking is only allowed on the north side of Eldridge Street, not on the south side of Eldridge Street or on Spruce Street.

Mr. Topping said the church probably intended to grow, and it seemed the building was already at capacity. He noted that there are other places of worship in town that have had problems with emergency vehicles getting by. Attorney Penny replied that cars could park on one side of Eldridge Street and not interfere with the flow of traffic. Mr. Topping said people have parked on both sides of the streets in violation of no parking signs at other places of worship, and he was reluctant to grant a request that had the potential to be a problem. Attorney Penny responded that it was the police department's responsibility to enforce the no parking rules, and that the town traffic engineer had reviewed the plans and did not see a problem.

Mr. Topping asked if the applicant would be reluctant to a condition that the hours must be as specified in the testimony. Pastor Uwaya stated that the church does not intend to conduct services other than what they currently have, which are on Sundays from 10 a.m. to 12:30 p.m. and on Thursdays from 7 p.m. to 9 p.m. He stated that he did not have any issue with possible conditions. Attorney Penny said he did not think a foundation had been established for the conditions suggested.

Mr. Darna said he was concerned that if there was no parking in one area, people driving in from Spruce or Eldridge streets would try to go between the two buildings while the congregation would be coming in and out of the building. He asked if an area would be set aside in front of the church where parking would not be allowed, with a space for pedestrians to walk. Attorney Penny replied that staff comments expressed concern about traffic conflict, so revised plans that were filed yesterday showed entry only off of Eldridge Street.

In response to a question from Mr. Slegeski, Pastor Uwaya said between 45 and 51 attend services on Sundays, and 10 to 15 attend bible study on Thursdays.

Mr. Gionet expressed concern about the amount of parking. Attorney Penny stated that the regulations set a standard of one space for every three seats in the church, which would be 17. The other two required spaces were for the parsonage. Since the parson and his family will attend Sunday services, that would not create a conflict. During Sunday services, four cars would park on Eldridge Street. Mr. Gionet raised the concern of what would happen if the congregation grew over time. Attorney Penny responded that, if that happens, the church will have to move because the sanctuary only accommodates 51.

Mr. Haley asked for more information about the building that would be used for counseling and meetings. Pastor Uwaya said the committee meetings include less than 10 people. There are four counselors and two to four counselees depending on the day. Mr. Haley asked if there were any plans for anything else in that building and Pastor Uwaya said they wanted to use it for community development projects, such as coming together to have a drink with members of community on a Saturday night. It would not be a community center; it would be used by church members, visitors, and friends.

In response to a question from Mr. Haley, Pastor Uwaya said there would not be any kind of bell to announce services.

In response to a question from Mr. Slegeski, Pastor Uwaya said the counseling meetings take place on Sundays after the church services, from 12:30 p.m. to 1 p.m.

Mr. Slegeski asked if the applicant would be averse to a condition that the exit onto Spruce Street, which would be one-way, must say "Do Not Enter." Attorney Penny said the applicant anticipated pavement markings and he thought a sign would be necessary.

In response to a question from Mr. Peak, Attorney Penny said the previous businesses on the property, a construction company and painting contractor, operated two businesses on the property with the configuration of 15 parking spaces and the narrow area between the buildings. He noted that a church would have many more people on the site than these previous businesses.

Attorney Penny noted that some nearby businesses on Spruce Street that don't operate on Sundays had expressed willingness to permit their lots to be used, but he felt that relying on private arrangements with property owners was not an appropriate response to the parking requirements.

Mr. Haley asked if there would be a van or bus to pick people up. The Pastor replied that there is a van that is not being used currently. He said he would find another place to park it so it would not take up a parking spot. Mr. Haley asked if the parsonage was a single family home and Pastor Uwaya confirmed that it was. Mr. Haley noted that the house was currently a multifamily

home with two apartments and Pastor Uwaya stated he and his family would occupy both parts of the house and would not rent out anything.

Ms. Bertotti said that some staff members had not had time to respond with their comments on the most recently revised plans. Water and Sewer had a minor comment that could be addressed as plan modification. The Assistant Town Engineer recommended evaluating the parking area off of Eldridge Street because several spots shown there are smaller than the required 9'x18', Ms. Bertotti said. The Zoning Enforcement Officer recommended a condition that the applicant or owner installs a solid fence along the property lines that abut the residential neighbors to the south and west, she said. Those three comments were based on the latest set of plans. Previous comments from the Fire Marshal were that he wasn't able to comment because there was discrepancy on the plan showing the size of the building vs. the size of the building on the site plan. Mr. Stevenson asked for clarification and Ms. Bertotti noted that this use will require full review by the building and fire departments, so the Fire Marshal's comment should not weigh heavily on the Board's decision tonight. Ms. Bertotti said the Traffic Engineer had questions relating to the specific number of people in the congregation and the allocation of parking between the three buildings. He indicated the onsite parking combined with on street parking on Eldridge Street was adequate, in his opinion, to accommodate parking during the church services, she said.

Attorney Penny said there is a chain link fence along the southerly boundary that the applicant can put vinyl strips in, and he said he would advise the applicant to put a solid fence by the house on Eldridge Street. Regarding the Fire Marshal's comment, Attorney Penny said the Fire Marshal had been unclear about what was happening with this use and Attorney Penny had clarified to him. Attorney Penny said he had spoken to the Traffic Engineer and once the Traffic Engineer was told that all of the buildings would be church uses, he was satisfied.

HILLIARD MILLS, LLC – application #2016-111 – Request a use variance of Art. II, Sec. 16.13 to allow health coaching and psychotherapy practices at 642 Hilliard Street, Industrial and Rural Residence zones.

Peter Bonzani, the property owner, presented the application. He explained that a similar application was approved for Rebecca Burton last year, and now other psychotherapists were interested in moving in to the site. Mr. Bonzani said Ms. Bertotti had advised him to request a blanket variance to allow this use on the site.

In response to a question from Mr. Stevenson, Mr. Bonzani said there are 11 empty spaces. One of the 11 empty spaces would be a large room that would likely be more than one office in the future, he said. Mr. Stevenson said the Board needs to see specifically what the applicant is going to do. Mr. Bonzani said four suites maximum for this type of use would be sufficient.

Mr. Slegeski asked whether drugs or medications are used during psychotherapy. Ms. Sarah Gilbert of 4 Tumblebrook Drive in Vernon said she provides individual psychotherapy, does not prescribe medications, and does not work with people who are actively using drugs.

Mr. Haley asked if Building 1 would be strictly office space with no industrial uses, noting that he would not want to see a grinding unit below these psychotherapists. Mr. Bonzani stated he has not rented to that type of tenant. Mr. Haley asked if the applicant would be satisfied with limiting the psychotherapy uses to just Building 1 and Mr. Bonzani said he would.

In response to questions from Mr. Peak, Ms. Bertotti confirmed that health coaching and psychotherapy are not specifically defined in the zoning regulations. Mr. Peak asked what zone a psychotherapist could practice in without obtaining a variance. Ms. Bertotti said she thought they would need a variance anywhere except possibly in some business zones if they could be viewed as professional business offices. Mr. Davis said he thought they could be located in the General Business zone and possibly Business III.

Mr. Peak asked if the regulations should be updated to define these terms. Ms. Bertotti said it would be up to the Planning and Zoning Commission to change the zoning regulations if they found this use was appropriate for the entire Industrial zone, but this application was for one specific site and staff had not yet seen requests for this type of use anywhere else in the Industrial zone.

Mr. Peak asked if a psychotherapist could prescribe medications and Ms. Gilbert said they could not.

Mr. Haley asked for clarification of the hardship for this application, and asked if it had to do with the building not being suitable for industrial uses now, and having difficulty filling it. Mr. Bonzani said that was correct and noted that the site is peaceful and other businesses in the site are quieter businesses, not heavy machining. Mr. Stevenson asked if this type of business was more compatible with the current tenants than traditional industrial use would be and Mr. Bonzani said that was correct.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. Ms. Bertotti read into record a letter submitted by Rebecca Burton, the current tenant who practices psychotherapy at this site, in support of the application.

There were no comments from staff.

Mr. Slegeski asked, if this application were approved, whether that would mean additional psychotherapy practices could go in any office. Ms. Bertotti said that was up to the Board, but she recommended that the Board avoid tying the applicant to any specific space, to allow flexibility to find tenants and have tenants choose locations they like. She noted that the applicant agreed that four units would be acceptable and only Building 1 would be acceptable.

The public hearing on this application was closed and the public hearing portion of the meeting was closed at 9:00 p.m.

I certify these minutes were adopted on the following date:

October 26, 2016
Date

James Stevenson, Chair

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

kmw