

MINUTES
MUNICIPAL BUILDING
ZONING BOARD OF APPEALS

December 21, 2022

5:00 P.M.

PRESENT: Kevin Foltz, Chairman, Andy Rosenberg, Sam Marotta, Nancy Babis, Meghan Lutz, Roxanne Devine, Pat McGrath, Deputy Corporation Counsel, Jason Dool, Chief Building Inspector.

ABSENT: Sheila Tracy

The Chairman explained to those present the procedure followed in these Hearings, First the explanation by the Appellant as to what he/she is appealing for, second, any questions those present wishes to ask to clarify the appeal, and third, the Board will hear any opinions for or against the granting of this variance. The chairman stressed the point that anyone wishing to speak must first state their name and address.

Roll call was taken by Chairman Kevin Foltz and all the members present stated that they have seen the properties.

The first case to be called was Case No. 2286. Appeal of Jennifer Lilley to erect a 6' high wooden fence on the south side of the property located at 51 Roosevelt Drive, Lockport, New York situated in an R-1 Zone.

Ms. Lilley stated that she already installed the fence. She said that she had the fence replaced. She said that she had a contractor install the fence and they didn't get a permit. She said that they put the fence back where it was.

Mr. Foltz asked why the contractor didn't get a permit.

Ms. Lilley said that Jason Dool lives down the street and told them to stop doing the work. She said then she got a violation letter.

Mr. Foltz said that it is a nice fence. He said that corner lots are a pain. He said that they granted the same thing across the street. He said that in the future, before work is started you should check with Megan to see if you need a permit.

Ms. Lilley said that it was her fault, she thought the contractor would get the permit.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to grant the request to install a 6' high fence on the south side of the property as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean, and orderly condition

Seconded by Andy Rosenberg.

Kevin Foltz-yes
Andy Rosenberg-yes
Sam Marotta-yes
Roxanne Devine-yes
Meghan Lutz-yes
Nancy Babis-yes

AREA VARIANCE GRANTED

The next case to be called was Case No. 2288. Appeal of Chase Commons, LLC to convert the existing nursing home into a 50-unit apartment house located at 327 High Street, Lockport, New York situated in an R-1 Zone.

Mr. Nick Massaro, Chase Commons, LLC, stated that they have a contract to purchase the Lockport Presbyterian Home. He said that they are requesting an area and a use variance. He said that they would like to convert the existing four buildings into market rate multifamily units. He said that there is a huge demand for market rate multifamily units. He said that they believe that this is the best repurpose use for the property. He said that there is no tax stream from the property now.

Mr. Massaro said that the units will be market rate, this will not be subsidized housing and will not be using historic tax credits. He said that they have experience in developing market rate apartments.

Mr. Massaro said that they hold onto the properties that they develop, they don't sell them. He said that they manage the construction process and hold onto the residences for lengths of time. He said that they will have a long term vested interest in the property.

Mr. Sean Hopkins, Counsel to Chase Commons, LLC stated that one of the reasons that they are before the board is because the efficiency units that are going to be market rate will be less than 600 s.f.

Mr. Hopkins said that there are other members of Chase Commons, LLC as well as Dan O'Neil of Beachwood present at the meeting.

Mr. Hopkins said that this is a 4.5-acre parcel, a big site that is zoned R-1 single family. He said that their overall goal is to take the existing buildings, two of which are historic and install 50 units. He said that there will be two-bedroom units, one-bedroom units and twelve 400 s.f. units.

Mr. Hopkins said that back in 1959 there was a use variance granted for a home for the aging when the zoning was R-4 and R-6. In 1962 those two zonings were either eliminated or restructured. He said that from 1962 to present time the use as an assisted living facility has been nonconforming.

Mr. Hopkins said that if you look at Section 190-16 of the Zoning Ordinance, the permitted uses are limited to single family dwellings, public parks and public schools. He said that none of those uses are viable. He said that there are four buildings on the property that they would like to repurpose.

Mr. Hopkins said that in the application there is a letter from Dan O'Neil stating that they acquired this property in 2021. He said that as of today the mortgage is 2.1 million dollars that still needs to be paid back. He said that their sale contract is for 1.3 million dollars. He said that they need the variances to eliminate any hardship on Beachwood and to minimize their loss. He said that no one wants to see this property site vacant long term.

Mr. Hopkins said that the details in the financial report from 2017 to 2021 show a loss of 2.8 million dollars. He said that the facility closed in August of 2022. He said that the occupancy level was down to 42%. He said that the nature of this business has changed dramatically. He said that generally people are waiting longer to leave their homes, they go from single family homes to skilled care or a nursing home.

Mr. Hopkins said that their vision is to respect the historical integrity of the buildings and the neighborhood.

Mr. Hopkins said that the applicant meets the requirement for a reasonable return. He said that they need this relief to minimize their loss on the property.

Mr. Hopkins stated that they meet the criteria for a hardship.

Mr. Hopkins stated that the third criteria they have to meet is not to change the character of the neighborhood. He said that this will enhance the neighborhood. He said that the buildings are vacant now. He said that they will be putting money into the property. He said that there will be 50 apartments. He said that this is the best redevelopment option.

He said that the apartments will be market rate not subsidized housing with a federal grant. He said that the people that will live here may not want the responsibility of having a house. He said that the location is also walkable to many places.

Mr. Hopkins said that the hardship was not self-created. He said that Beachwood acquired the property. He said that the final losses predated the current owners.

Mr. Hopkins said that Section 190-31 (e) of the Zoning Ordinance regulate conversions. He said that the current code requires a unit to be a minimum of 600 s.f.

Mr. Hopkins said that the building now known as the Heart Building has existing units that are 400 s.f. He said that they would like to renovate them, adding new fixtures and such without taking down any walls. He said that if they were to have to take down walls it would jeopardize the project finically. He said that times are changing, there is more of a demand for micro units. He said that this is a nice neighborhood. He said that these units could be for people that travel a lot or don't want a lot of space. He said that there is a strong demand for units that are more affordable.

Mr. Hopkins said that theses units would be for the community. He said that there will be no alterations to the exterior of the building. He said that if they take down walls it will increase their construction cost and lessen the amount of units in the building.

Mr. Hopkins said that the request is not substantial, the units being 400 s.f. will not cause any harm. He said that there will be no physical change to the neighborhood, this project will enhance the property. He said that it will also get the property back on the tax rolls.

Mr. Hopkins said that this request is not self-created because the units already exist today.

Mr. Hopkins said that they are applying for two variances, the use to convert the existing buildings into 50 new market rate units and an area variance for 12 of the units to be less than 600 s.f.

Ms. Babis asked if Chase Commons, LLC has any other properties in Lockport.

Mr. Massaro said no, the membership has various properties in Lewiston and one of the partners has units in Buffalo.

Ms. Babis asked Mr. Massaro to expand on what market rate units are.

Mr. Massaro said that the rent is based on the market and need, it is not subsidized. He said that they are nice and affordable but market priced.

Ms. Lutz asked if the efficiency units will have kitchens.

Mr. Massaro said yes. (Showed a rendering of the potential layout) He said that there is a 9' wide wall where the kitchen will be located with slide out cabinets.

Ms. Lutz asked if the efficiency units are going to be studio units.

Mr. Massaro said there will separate space for a bedroom, living space and bathroom.

Mr. Massaro said that these types of units are new to Lockport but are in high demand.

Mr. Massaro said that the building was originally designed to have kitchens in the smaller units but it never happened.

Mr. Massaro said that all of the units will be stand alone, there will not be any shared facilities.

The meeting was opened to the public.

Ms. Carol Ridley, 390 Washburn Street, stated that she lives next door to where the traffic comes out of the parking lot. She said that Rushmore Alley is newly paved and is a one-way alley. She said that this will cause all kinds of traffic. She said that people already speed down the alley. She said this variance will make it worse, people coming in and out at the alley where her garage is. She said that traffic and parking are going to be an issue. She said that she doesn't like this idea.

Ms. Ridley asked how they propose to install 50 units on the property.

Mr. Massaro said that the units will be inside the existing structures, they aren't changing the outside of the buildings.

Ms. Ridley said that traffic is going to be an issue. She said that people are going to have visitors, where are they going to park. She said that with 50 units, most people have two cars. She asked where everyone is going to park, one the street? She said now when people park on the street, people open doors and get hit by traffic. She said that she doesn't want to see any accidents.

Mr. Massaro said that the majority of the existing parking is on the back part of the property.

Ms. Ridley said that she has lived at her home for 42 years and she doesn't want to see single units.

Mr. Massaro said that twelve of the units are going to be efficiency and the rest will be one and two-bedroom units.

Ms. Ridley said that she doesn't want any trouble in the neighborhood, kids walk to school around there.

Mr. Hopkins said that they can obscure the parking if need be. He said that the parking will all be onsite, off the street. He said that this is a concept plan so that they can get to the next step in the process of purchasing the property. He said that they are very comfortable saying they have adequate parking onsite for residents and visitors.

Mr. Hopkins said that having a single access parking area is not acceptable by NYS Fire Code. He said that because of the amount of parking needed, they have to have a second access point. He said that this is just step one in the process, there will be additional review. He said that they need a second access point to spread the traffic out. He said that there won't be a substantial increase in traffic. He said that they don't intend to use on street parking.

Mr. Hopkins said that they are going to remove some the green space on the east side to add additional parking spaces. He said that they will also be using the existing parking lot area. He said that they have to have this amount of parking because of the Code.

Ms. Lori Piscicelli, 36 Grant Street, stated that her property butts up to the existing parking lot and there is a 3' fence in between them. She said that the chain link fence is in poor shape. She asked if that will be fixed.

Mr. Massaro said that if the fence that is there is not substantial, they can look into installing a better buffer, maybe some landscaping.

Ms. Piscicelli asked if they are going to allow pets in the units.

Mr. Massaro said yes, usually one or two with a monthly fee.

Mr. Hopkins said that you almost have to allow pets.

Ms. Piscicelli asked if there are going to be children in the units.

Mr. Hopkins said that they can discriminate.

Ms. Piscicelli said that 50 units is a lot of people, it will change the character of the neighborhood. She said that she is not sure if she is ok with that much traffic. She said that she understands the issue with the property but 50 units is a ton.

Stacy, 330 High Street, stated that she is for this project after speaking with Nick. She asked if any of the units are going to be smaller than 400 s.f.

Mr. Massaro said they will be 400 s.f.

Stacy said that there are currently 52 units in the buildings. She said that she is partially concerned but doesn't want the property to become vacant or foreclosed. She said that this is the best solution for the property.

Mr. Jeff Welton, 398 Washburn Street, asked what they are going to do with the historic buildings. He asked what they are basing the market rate on, the south side of High Street or the North. He said that the current use was compatible with the neighborhood, the tenants rarely came out of the buildings. He said that there were only a few cars and there weren't people coming and going constantly.

Mr. Massaro said that the market rate is set regionally. He said that the average market rate rent starts at \$700-\$800 and goes up based on square footage. He said that the rate is not set by street.

Mr. Hopkins said that the units are going to be market rate and they will be new units. He said that they can't guarantee anything but generally the rate is \$1.60 per square foot of living space. He the average will between \$1,000 to \$1,600 for the units. He said that the units will be upscale. He said that there is nothing like this in Lockport, there will be a demand. He said that most of the people that will live in the units already live in Lockport, they just don't want any maintenance.

Mr. Hopkins said that they want to install 50 units in the existing space where 52 currently exist. He said that they aren't adding anything, the buildings already exist. He said that for a 4.5-acre lot, that is low density.

Mr. Foltz explained that this is not the last step in the process for the project. He said that the parking and landscaping will have to go before the Planning Board. He said that right now they are just before the Board for the use and the size of the units.

Mr. Hopkins said that Nick sent a letter to everyone in the neighborhood who got letters from the City so that they can communicate. He said that they want to be a good neighbor.

Mr. Massaro said that their intent is to maintain the historical integrity of the exterior of the buildings. He said that the windows will have to be changed by Code.

Mr. Hopkins said that the historical integrity of the buildings will be lost if they stay vacant for very long.

Barb Pease, 421 Washburn Street, stated that her issue with the traffic flow is that the Presbyterian Home owned the two houses on Washburn Street next to her. She said that they block the light from shining on her house. She asked if the houses are going to be demolished.

Mr. Massaro said that they do not intend to take the houses down.

Timothy Greeley, 24 Grant Street, said that he is concerned with the fence as well. He asked what will happen if they can't fill the apartments at market value, will they then rent to government assisted people. He said that this building was always for elderly

people and now will be every age group. He said that he has lived in the neighborhood for 25 years, he knows the neighborhood.

Mr. Massaro said that they can raise and lower the rent 5% to stabilize the property. He said that they spoke with Garr & Associates shortly after the reassessment and they said that the City could support another 125 units. He said that 50 units is well within the realm of the market analysis.

Mr. Hopkins reiterated that they are going to be putting millions of dollars into this project. He said that they can raise and lower the rent according to the market. He said that they need these variances to secure financing for the project.

The meeting was closed to the public.

Mr. Massaro said that the parking on Washburn and High is already existing. He said that the buildings are setback 100' from the road. He said that they are not adding a lot of spaces.

Mr. Hopkins said that the buildings are set back from the street, they do not want to fill in the green space on High Street. He said that they want to spread the parking out. He said that they have to have parking. He said nothing is set in stone yet with the layout, it is a large lot.

Mr. Massaro said that most of the parking is already there, they are just adding spaces.

Mr. Massaro said that with 50 units they need two spaces per unit. He said that he doesn't think that on street parking will be an issue. He said that they are adding 35 spaces.

Mr. Foltz said that the Planning Board can request landscaping be installed to hide some of the parking and make the property more attractive.

Mr. Hopkins said that they are more than happy to entertain anyone's questions or suggestions on how to enhance the property.

Mr. Foltz asked where people would send their concerns to.

Mr. Massaro said he will take them; his contact information was on the letter that he distributed.

Mr. Foltz said that before the Planning Board meeting, people now have to opportunity to asked questions ahead of time.

There being nothing further Meghan Lutz made a motion to approve the variance request to convert the existing nursing home into a 50-unit apartment house as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean, and orderly condition

Seconded by Andy Rosenberg.

Kevin Foltz-yes
Andy Rosenberg-yes
Sam Marotta-yes
Roxanne Devine-no
Meghan Lutz-yes
Nancy Babis-yes

USE VARIANCE GRANTED

Nancy Babis made a motion to approved the variance request for 12 of the units to be 400 s.f. as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean, and orderly condition

Seconded by Sheila Tracy.

Kevin Foltz-yes

Andy Rosenberg-yes
Sam Marotta-yes
Roxanne Devine-no
Meghan Lutz-yes
Nancy Babis-yes

AREA VARIANCE GRANTED

Greater Lockport Development Corporation. 160 Washburn Street. Request to extend Variance Case No. 2216.

Nancy Babis made a motion to approve the request to extend Variance Case No. 2216 for one year. Seconded by Andy Rosenberg.

Andy Rosenberg-yes
Sam Marotta-yes
Roxanne Devine-yes
Meghan Lutz-yes
Nancy Babis-yes

VARIANCE EXTENDED

Andy Rosenberg made a motion to approve the minutes of the November 22, 2022 meeting. Seconded by Meghan Lutz. Ayes-6 Noes-0

Meghan Lutz made a motion to adjourn; Motion seconded by Sam Marotta. Ayes-6 Noes-0

MEETING ADJOURNED

The next regularly scheduled meeting will be Tuesday, January 24, 2023 at 5:00 p.m.