

MINUTES
MUNICIPAL BUILDING
ZONING BOARD OF APPEALS

February 25, 2025

5:00 P.M.

PRESENT: Kevin Foltz, Chairman, Sam Marotta, Shelia Tracy, Andrew Rosenberg, Meghan Lutz, Nancy Babis, Kevin McDonough, Anthony Serianni, Deputy Corporation Counsel, Jason Dool, Chief Building Inspector

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. 2344. Appeal of Louis Marcantonio to subdivide the existing lot and erect two two-family dwellings located at 87 Center Street, Lockport, New York situated in an R-1 Zone.

Mr. Marcantonio, 140 Roby Street, Lockport, New York, stated that he would like to respond to the four criteria for a use variance. He stated that he can't gain a reasonable return on the property building single family homes. He said that to build a 1,500 square foot single family home it would cost approximately \$250,000. He said that he has provided financial evidence in the schedules provided to the Board.

Mr. Marcantonio said that the return on a single family home is not enough to cover the cost of the build. He said that building a duplex will cost approximately \$265,000. He said that building a two-family will allow him to have two forms of income making this cost effective.

Mr. Marcantonio said that this would be two properties that will be added to the tax base.

Mr. Foltz asked if he knew the cost of construction before he bought the property.

Mr. Marcantonio said that he doesn't own the property, it is under contract.

Mr. Foltz said that if he doesn't own the property and it isn't cost effective to build a single family home, then don't buy the property. He said that he can build a single family home as a rental. He said that if he knew the cost of construction for a single family home he wouldn't buy the property.

Mr. Marcantonio said that anyone in the area could have bought this property but they haven't. He said that it was actually sold in the tax foreclosure auction in 2019. He said that it has been for sale for a while. He said that the property has enough frontage for individual building lots.

Mr. Marcantonio said that there are three multifamily homes on Center Street and in the area. He said both in R-1 and I-3 Zones. He said that there are many more multifamily homes within R-1 Zones in the City. He said that he provided some examples in Schedule F of his submission.

Mr. Marcantonio said that 37, 109 and 147 Center Street are all two-family homes. He said that 147 Center was built in 2016. He said that the duplexes he wants to build will blend in with the neighborhood.

Mr. Marcantonio said that in no way is the hardship self-created.

Mr. Marcantonio said that he has provided draft renderings of what the buildings would look like. He said that each individual unit will have its own driveway. He said that the buildings will have metal gray siding, black gutters and roof. He said that the siding will look similar to board and batten siding.

Mr. Marotta asked what the square footage of each duplex will be.

Mr. Marcantonio said 1,000 each unit.

Mr. Marotta said that the documents that were given to the board stated that the projected rent would be \$1,650 for a single-family dwelling.

Mr. Marcantonio for a two-bedroom yes.

Mr. Marotta said that the documents say that projected rent for a two-family is \$1,800 for the same size.

Mr. Marcantonio said that he currently charges \$1,250 for a two-family he owns and it is not new.

Mr. Marotta said that looking at the financial comparisons that were given to them, something doesn't add up.

Ms. Tracy asked how he plans on renting the properties.

Mr. Marcantonio said that they would be yearly leases.

Ms. Tracy said that the documents given to them say an income of \$2,100.

Mr. Marcantonio said that is shown for a single-family home.

Ms. Babis said that Schedule F in the documents they were given shows other multi-family dwellings in R-1 Zones. She asked if these are comparable in square footage as to what he would like to build and on the same income level.

Mr. Marcantonio said yes, he has ten apartments in the City.

Ms. Babis asked if he currently charges \$1,800 a month in rent for his other rentals.

Mr. Marcantonio said no, they are not new. He said that he charges \$1,250.

Mr. Marotta asked if he plans on charging \$1,250 for each of the units.

Mr. Marcantonio said no, he currently charges that much for his existing units.

Mr. Marotta asked if plans on charging \$1,650 for each of the new units.

Mr. Marcantonio said yes.

Mr. McDonough said that it is new construction cost versus old construction.

The meeting was opened to the public.

Mr. Perry Sharts, 88 Center Street, stated that Mr. Marcantonio does not own the property yet. He said that he has no hardship. He said that the neighborhood is zoned R-1 single family homes and that is what he should have to put there. He said that 147 Center Street was an exception because of elderly parents.

Mr. Sharts said that two duplexes will be creating an apartment building with one owner on separate lots. He said that this will bring multiple cars onto the street and on the lot, more garbage cans and more stress on the sewer system. He said that the wind blows in his house's direction so garbage would blow onto his property.

Mr. Sharts said that there are single-family homes in the area. He said that apartment complexes bring problems. He said that there is no hardship here. He said that Mr. Marcantonio didn't have to buy the property.

Mr. Sharts said that Mr. Marcantonio's home is on a 1.3 acre lot around the corner with a beautiful wooded lot. He said that he isn't trying to build there, he is trying to build on his block.

Mr. Sharts said that an apartment complex will change the neighborhood drastically. He said that he bought his home and moved to get away from that. He said that he moved three years ago because of the problems in apartment complex.

Mr. Sharts said that this is the Canal district and one of the oldest neighborhoods in the City. He said that if they allow this, other people will want to do the same.

Mr. Sharts stated that Mr. Marcantonio shouldn't be here, he should be in front of the Planning Board to change the zoning of the property. He said that this is the Canal District, police and EMTs drive down in this area to clear their heads.

Mr. Sharts said that this would be four units with two bedrooms in each. He said that means 8-16 cars on the property. He said that this will impact the sewer system, the area is designed for single family homes.

Mr. Sharts said that there will be more garbage cans, creating more garbage. He said that with the car situation, they would need room to park up to 16 cars.

Mr. Sharts said that this is not going to go on the tax rolls. He said that he would hate to have two places built on the property, maybe one single family would be ok.

Mr. Sharts said that this is not a permitted use for the neighborhood. He said that he should have gone to the Planning Board to change the zoning. He said that this will change the character of the neighborhood even if there is a financial hardship.

Mr. Andrew Young, 80 Center Street, stated that he lives directly across the street from the property. He said that last rendering shown, the structures would be steel structures. He asked if that is still the case. He said that the rendering also showed a parking lot for 12 cars. He said that you do not see that anywhere else in the neighborhood. He said that would change the aesthetics of the neighborhood.

Mr. Young said that he has five children. He said that this would create more cars going up and down the street and his kids play outside. He said that he is against the duplex. He said that he is ok with single family but against a duplex.

The meeting was closed to the public.

Ms. Lutz asked Mr. Marcantonio to clarify what material the buildings would be.

Mr. Marcantonio said that they would be metal panels, 2' x 10' wide.

Ms. Babis said that in Schedule E shows both a labor/building package and just a labor cost. She asked him to explain that.

Mr. Marcantonio one is the framing of the buildings themselves and the other is the finishing labor.

Mr. Marcantonio said that there will be four individual blacktop driveways, not a parking lot.

Ms. Babis asked if the driveways will be behind the buildings.

Mr. Marcantonio said they will be on the sides of the buildings.

Mr. Foltz asked if he wanted to build duplexes only because of the building cost.

Mr. Marcantonio said that he could split the lot into three lots and build three single family homes if he wanted to. He said that he would rather build two duplex.

Mr. Foltz said that he doesn't own the property. He said that he is having a hard time because Mr. Marcantonio wants to buy the property and justify a profit. He said that he is running a business. He said that this is a residential neighborhood.

Mr. Marcantonio said that the zoning is heavy industrial right around the corner.

Mr. Foltz said that he lives in an I-3 Zone. He said that Mr. Marcantonio want to buy the property and build duplexes to make money. He said that he doesn't think the City is in the business to help others make money. He said that three single family homes would be great.

Mr. Foltz said that Center Street and North Adam Street are open residential streets. He said that it will start to change the neighborhood from R-1 to multifamily. He said that this area is more rural residential. He said that this project would change the neighborhood. He asked Mr. Marcantonio how he would feel about having a duplex next to his home. He said that he doesn't understand how he can asked this of the board.

Deputy Corporation Counsel Serianni stated that he has read the SEQR form submitted and recommends that the Board declares a negative declaration.

Meghan Lutz made a motion to declare a negative declaration for the project submitted. Seconded by Kevin McDonough.

Kevin Foltz-yes
Sam Marotta-yes
Andy Rosenberg-yes
Kevin McDonough-yes
Sheila Tracy-yes
Nancy Babis-yes
Meghan Lutz.

NEG DEC DECLARED

Mr. Foltz read the criteria for a use variance.

Mr. Foltz stated that as for the criteria for a reasonable return, Mr. Marcantonio does not own the property.

Mr. Marotta said that he can build three single family homes on the lot but he is asking for two duplex.

Ms. Tracy stated that the duplex will not fit in with the neighborhood.

Mr. Foltz stated that as for the character of the neighborhood, this will change the neighborhood especially with a parking lot.

Ms. Babis stated that there will not be a parking lot, there will be individual driveways.

Mr. Foltz said as for a hardship, this is self-created. He said that he doesn't own the property, so how can he have a hardship.

There being nothing further Meghan Lutz made a motion to deny the request to subdivide the existing lot and erect two two-family dwellings as follows:

WHEREAS, the hardship is self-imposed and

WHEREAS, the request is substantial.

Seconded by Nancy Babis

Kevin Foltz-yes
Sam Marotta-yes
Andy Rosenberg-yes
Kevin McDonough-yes
Sheila Tracy-yes
Nancy Babis-yes
Meghan Lutz.

USE VARIANCE DENIED

The next case to be called was Case No. 2343. Appeal of Chase Common to expand the existing blacktop parking lot to increase the total number of parking spots to 59 located at 327 High Street, Lockport, New York situated in an R-1 Zone.

Mr. Nick Massaro, Chase Common was present.

Mr. Massaro stated that they require an area variance to have 59 parking spots in their lot. He said that they currently have 43 spaces. He said that he can walk through the four criteria if the board wants.

Mr. Foltz asked in what area are they expanding the lot.

Mr. Massaro said that in the northwest corner of the property there will be ten 9' x 10' spaces. He said that the site plan shows additional vegetation and landscaping on the Washburn Street side.

Mr. Foltz said that it is good when you are increasing the amount of cars moving in and out to property landscape to reduce the amount of light that headlights shine.

Mr. Massaro said that the plan doesn't call out what the landscaping will be but it will most likely be 4' to 5' arborvitaes that will grow larger to mitigate the light. He said that they are going to restripe the existing lot on the southwest corner of the property. He said that it is currently striped at 10' and they are going to stripe it 9' to pick up three more spaces.

Mr. Massaro said that on the southeast corner, behind the building they will be making changes to increase the amount of spaces. He said that they currently have 43 striped spaces and they are increase that. He said that by the existing Zoning Code they would need 102 parking spaces, which is two spaces per unit.

Ms. Babis asked if they are just restriping the existing lot to increase more spaces or if they are going to add any areas. She asked if they are restriping the area on the side of the Williams Building and rear.

Mr. Massaro said that he didn't do the drawing. He said that he assumes that most of the spaces are all currently 10' and they are changing them to 9'. He said that he can look into this. He said that on the southwest corner of the lot, the stalls are 10' and they are restriping them to 9'.

Jason Dool explained that angled parking has different distance requirements.

Mr. McDonough asked if part of their project is done.

Mr. Massaro said that they have 29 units done and they are full. He said that was Phase 1. He said that they are working on Phase 2, 22 more market rate units. He said that they are here to get the approval for the spots for the 22 units.

Mr. McDonough asked how many cars/ people per unit is common with the occupied units.

Mr. Massaro said most units one. He said that Phase 1 and 2 the units are small, between 400 and 500 square feet. He said that they have residents that don't drive. He said that if need be, they can assign them parking spaces. He said that most units have one tenant per unit so they feel a 1 to 1 ratio with parking is adequate.

Ms. Tracy asked how safe it is with the residents walking to their cars in that neighborhood.

Mr. Massaro said that with the parking configuration, no issues.

Ms. Tracy asked if they have security.

Mr. Massaro said that they have a fire alarm system and cameras.

Ms. Tracy asked if there was security for people walking to their cars.

Mr. Massaro said that the lots have sidewalks and turn around areas.

Mr. Foltz asked if there are installing additional lighting in the parking lots.

Mr. Massaro said that they can arrange for more parking lot lighting. He said that there are light poles in the front and rear of all of the buildings. He said that it is not a far walk from the buildings to the lot, maybe 10' – 12'.

Mr. Foltz said that he knows they own the house on Washburn Street. He asked if they have a snow removal plan.

Mr. Massaro said that they have been piling the snow by the dumpster in the southwest corner of the lot and southeast corner of the lot. He said that they no longer own 409 Washburn, they sold it to the tenant.

The meeting was opened to the public.

Mr. Tim Greeley, 24 West Grant Street, asked if they are installing 43 more parking spaces. He said that the southeast lot borders his backyard.

Mr. Greeley asked how many more spaces are being added to that lot.

Mr. Massaro said 3.

Mr. Greeley said that his backyard is an oasis. He said that this is right in his backyard. He asked where they are adding parking on the Washburn Street side.

Ms. Babis said they are not, they are restriping it.

Mr. Greeley stated that he has a sanctuary in his backyard, he would like to see a fence be installed. He said the fence is the most important thing to him, they have headlights shining from people coming in and out all the time.

Mr. Massaro said that the existing fence is Chase Commons. He said that the parking lot runs east to west and Mr. Greeley's backyard is to the north. He said that people were in and out of the parking lot when the Presbyterian Home was open. He said that they can take installing a new fence into consideration.

Maria, 302 Hawley Street, questions the cameras and security system.

Mr. Massaro said that there are exterior cameras in the New Cottage building on the east wing. He said that he can look to see if there are cameras on the south wing but no one enters the building on that side because of the fence.

Mr. Jeff Welton, 398 Washburn Street, stated that he has no problems. He said that most of the tenants are seniors and they don't have any issues with anyone. He said that said that the parking lot has been full for the last month so that would be his only concern. He said that there are two large City trees on the northwest corner of the property. He said that he would like to see those stay.

Mr. Massaro said they do not plan on taking any trees down.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to approve the request to expand the existing blacktop parking lot to increase the total number of parking spots to 59 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
Sam Marotta-yes
Andy Rosenberg-yes
Kevin McDonough-yes
Sheila Tracy-yes
Nancy Babis-yes
Meghan Lutz.

AREA VARIANCE GRANTED

The next case to be called was Joseph Taylor. Request for an extension for Variance Case No. 2231.

Mr. Joseph Taylor, 8144 West Ave, Gasport, stated that he is the Director of JT Sports and Recreation. He said that they have received grants from the Grigg Lewis Foundation and the Niagara County Youth Department for their after school programs and they have been growing their business since 2018.

Mr. Taylor said that he was approved for a micro enterprise grant. He said that he was approved for a 4,800 sf building to expand his programs for youth. He said that he was informed that his variance expired and is here to asked for an extension. He said that he has contractors ready to build the building at 322 Hawley Street.

Ms. Lutz asked why it has taken so long for him to move the project forward.

Mr. Taylor said that he is the sole owner of the property at 322 Hawley Street and he had to fix a financial issue with his taxes. He said that he should close on his SBA loan within the next 30 days.

Mr. McDonough asked if the variance extension is granted, how long until construction begins and the building is operating.

Mr. Taylor said that he would like to break ground mid-summer.

Ms. Lutz asked to clarify the issues with the grant and finances.

Mr. Taylor said that he owns JT MMA which is his for profit business and also JT Sports and Rec which is a not for profit. He said that he uses the grants to fund after school programs from 3 pm to 5 pm. He said that they are open for kids Monday-Friday and on holidays. He said that he also does free boxing classes from 5 pm to 6pm at his Pine Street location. He said starting April 1st he will be offering free acrobatics and meditation classes.

Mr. Taylor said that he has a lot of kids walking from uptown and the north end all the way to 30 Pine Street. He said they he would really like to open a location in the north end for youth.

Mr. Taylor said that he had a PE teacher reach out to him about programs because they want to help their students.

Mr. Marotta asked if the reason he couldn't move forward with the project in the last four years was because he is the sole proprietor named on the business and he needed to get sorted out.

Mr. Taylor said it was an issue with the S corp.

Mr. Marotta asked if the grants are going to pay for the building to get up and running.

Mr. Taylor said no, the building will be built under his business, ½ JT MMA and ½ JT Sports and Rec the not for profit. He said that couldn't secure a loan with just the not for profit because the business hasn't been open for long enough.

Ms. Tracy asked where he is currently located and running the programs.

Mr. Taylor said 30 Pine Street.

Mr. Foltz stated that an open hearing has already been held on this case.

Deputy Corporation Counsel Serianni stated that the Board is not required to open this request to the public for comment.

There being nothing further Nancy Babis made a motion to approve the request for an extension with the condition that construction begin within 9 months of the granting of the extension.

Seconded by Andrew Rosenberg.

Kevin Foltz-yes
Sam Marotta-No
Andy Rosenberg-yes
Kevin McDonough-yes
Sheila Tracy-yes
Nancy Babis-yes
Meghan Lutz.

EXTENSION GRANTED

Andrew Rosenberg made a motion to approve the minutes from the February 25, 2025 meeting. Seconded by Nancy Babis. Ayes-7 Noes-0

Nancy Babis made a motion to adjourn; Motion seconded by Meghan Lutz. Ayes-7 Noes-0

MEETING ADJOURNED

The next regularly scheduled meeting will be Tuesday, April 22, 2025 at 5:00 p.m.