

Minutes
Village of Orchard Park
Zoning Board of Appeals
April 19, 2017

The Village of Orchard Park Zoning Board of Appeals held a meeting on Wednesday, April 19, 2017 at the Municipal Center, 4295 South Buffalo Street, Orchard Park, New York.

Chairman Mike Borowiak called the meeting to order at 7:07 p.m. and stated, "If anyone appearing before the Board is related thru family, financial or business relationship with any member of the Board, it is incumbent upon him to make it known under the New York State Law and the Village Code of Ethics."

Members present:

Chairman, Mike Borowiak
Gary Phillips
Bill Riter
Alternate David Obrochta
Alternate Scott Hartung

Others present:

Jonathan McNatty, Trustee
Christine Hanavan, Secretary
James Larivey, Asst. Code Enforcement Officer

Members absent:

Amy Glowczynski

The Chairman asked for approval of the minutes of the previous meeting held on January 18, 2017. On the question:

GARY PHILLIPS	YES
BILL RITER	YES
DAVID OBROCHTA	YES
SCOTT HARTUNG	YES

Chairman Borowiak then stated, "All persons making an appeal before this Board will be heard in accordance with the applicable laws of the State of New York and the Village of Orchard Park. Any person aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal, specifying the grounds of the illegality. Such petition must be presented to the court within 30 days after filing of the decision in the office of the Village Clerk."

Chairman Borowiak asked if site inspections for all cases presented were made by all Board members:

GARY PHILLIPS	YES
BILL RITER	YES
DAVID OBROCHTA	YES

SCOTT HARTUNG YES
MIKE BOROWIAK YES

ZBA Referral

**Estelle Young
6475 New Taylor Road
Orchard Park, NY 14127
SBL #162.17-1-35**

Applicant is requesting a variance to Chapter 225. Schedule I, Use Controls

Applicant is requesting permission to build a single family dwelling in a B-1 commercial zone. A single family dwelling is not a permitted use in a B-1 zone.

APPEARANCE: Terry Young and Estelle Young

DISCUSSION: Applicants explain that the purpose of constructing the house is so that the mother can live in the village and be closer to village activities and serve as a buffer between B1-B2 and R2 zoning. Bill Riter asked what would be used to separate the different zoning properties. The response was a fence. Applicants indicated the garage on the property will be moved to the back of the property or demolished and will be part of the permit.

The Chairman asked three times if there was anyone in the audience who would like to speak in favor of granting the variance. There were none.

The Chairman asked three times if there was anyone in the audience who would like to speak against granting the variance. There were none.

Kevin Moran of 55 Princeton Place asked if a soil sample would be required before building. Mayor Clinton, who was in the audience stated that a short form environmental was completed.

The Chairman then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated the Erie County Division of Planning had no recommendation and the Village Planning Board made a positive referral to the Zoning Board of Appeals. Correspondence was also received from Brad Rauch of 205 Linwood indicating a positive referral of this variance.

David Obrochta made a motion, seconded by Scott Hartung in favor of granting permission to build a single family dwelling in a B-1 commercial zone. The hardship was not self- created and

will not alter the essential character of the neighborhood.

THE VOTE ON THE MOTION BEING:

GARY PHILLIPS	YES
BILL RITER	YES
SCOTT HARTUNG	YES
DAVID OBROCHTA	YES
MIKE BOROWIAK	YES

THE MOTION WAS PASSED.

ZBA Referral

**39 North Buffalo St. Inc.
Joseph T. Macaluso
Orchard Park, NY 14127
SBL #162.17-1-9**

Applicant is requesting a variance to Chapter 2225, Schedule I, Use Controls

Applicant is requesting permission to build multifamily dwellings on the first floor of an existing structure. The code only permits multifamily dwellings above a business establishment in a B-1 zone.

Applicant is requesting a variance to Chapter 225, Section 17, Paragraph A92) Off Street Parking Schedule.

Applicant is requesting permission to build multifamily dwellings and a business establishment in an existing structure with eighteen (18) parking spaces. The code requires twenty one (21) parking spaces.

APPEARANCE: Joseph Macaluso

DISCUSSION: Applicant discusses his decision to build multifamily dwellings as a better look for the village. He feels the neighbors will be happier that he doesn't utilize parking on the street. He thinks the retail store in the front would be a nice addition for the village. He explained that after the fire he could not rent the building. Gary Phillips asked the applicant about his timeframe. Mr. Macaluso explained the financing is done, the architect renderings are complete and he is ready to go. He estimates the project at 5 months. He stated that there would be ten (10) units and the building will have full sprinkler. Photos of the outside of the building were presented. The back half of the building would have 4,000 square feet

added to the second floor. The storage building will be knocked down. Bill Riter asked how many means of egress are on the second floor. Mr. Macaluso indicated two out the side and two out the back. Dave Obrochta had a concern regarding the percentage of retail on the first floor. Mike Borowiak says for this application he has 25% allotted for retail and 75% for residential.

Dave Obrochta would like a precedent set for future situations as this.

The Chairman asked three times if there was anyone in the audience who would like to speak in favor of granting the variance. There were none.

The Chairman asked three times if there was anyone in the audience who would like to speak against granting the variance.

Kevin Moran of 55 Princeton Place wanted confirmation that retail would occupy the street level front of the building. He is concerned with the overflow parking. He asked how much rent he would be asking and Mr. Macaluso said he is expecting \$1,300 - \$1,400 per month. Mr. Moran indicated that he is the spokesman for his neighborhood and feels he has been left out.

The Chairman then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated the Erie County Division of Planning had no recommendation and the Village Planning Board made a positive referral to the Zoning Board of Appeals.

Bill Riter made a motion, seconded by Gary Phillips in favor of granting permission to build multifamily dwellings on the first floor of an existing structure with the stipulation the first floor retail space must be not less than 1,800 square feet. The minimum apartment size cannot be less than 825 square feet on the first floor.

THE VOTE ON THE MOTION BEING:

GARY PHILLIPS	YES
BILL RITER	YES
SCOTT HARTUNG	YES
DAVID OBROCHTA	YES
MIKE BOROWIAK	YES

THE MOTION WAS PASSED.

Bill Riter made a motion, seconded by Gary Phillips in favor of granting permission to build multifamily dwellings and a business establishment in an existing structure with eighteen (18)

parking spaces.

THE VOTE ON THE MOTION BEING:

GARY PHILLIPS	YES
BILL RITER	YES
SCOTT HARTUNG	YES
DAVID OBROCHTA	YES
MIKE BOROWIAK	YES

THE MOTION WAS PASSED.

Moved by Dave Obrochta, seconded by Scott Hartung to adjourn at 8:40 p.m.

THE VOTE ON THE MOTION BEING:

GARY PHILLIPS	YES
BILL RITER	YES
SCOTT HARTUNG	YES
DAVID OBROCHTA	YES
MIKE BOROWIAK	YES

THE MOTION WAS PASSED.

Respectfully submitted,

Christine Hanavan
Secretary

Chairman's Approval:

Date: _____