

**City of Schenectady  
Board of Zoning Appeals  
Meeting Minutes  
June 5, 2019**

**I. CALL TO ORDER**

Mr. Gleason called the meeting to order at 6:30 p.m.

Prior to taking the first item on the agenda, Mr. Gleason explained to the members of the public present how the consideration of the applications would proceed. He stated that the applicants would have an opportunity to make their presentation to the Board, followed by any members of the public who would like to speak in favor of the application. Next any members of the public in opposition to the application would be invited to speak, followed by any further discussion or questions the Board Members wished to put forth prior to the vote. He added that after the initial presentation of the proposal the applicant would not be given another opportunity to comment unless directly questioned by a Board Member.

**II. ATTENDANCE**

**PRESENT:** James Gleason, Chair; Fred Clark; David V. Connelly; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Zoning Officer; Jennifer Mills, Secretary

**III. CONFLICT OF INTEREST CHECK**

None.

**IV. APPROVAL OF MEETING MINUTES**

Motion by Mr. Connelly, seconded by Ms. Smith, to approve the Minutes of the May 1, 2019 meeting as submitted.

*Motion carried unanimously.*

**V. NEW BUSINESS - APPLICATIONS**

**A. CHAITRAM OMROW requests Area Variances for 939 Emmett Street (49.42-1-24) located in the R-2 Two-Family Residential District, to allow for a 900 sq. ft. patio with a 13' rear yard setback where a 776 sq. ft. patio is allowed and a 24' rear yard setback is required pursuant to Schedule C of the Zoning Ordinance.**

Chaitram Omrow presented the application.

Mr. Omrow explained that he had revised the application that he had presented at the May 2019 meeting (which had been denied). He stated that the new application is for a 900 square foot patio, much smaller in size than previously proposed, with the addition of a new drywell being installed for

proper drainage. Zoning Officer Epstein noted that Mr. Omrow did not need any other variances with this proposal because the new covered patio is not attached to the house and is therefore considered an accessory structure. Ms. Smith asked if the size of the new garage had changed. Mr. Omrow stated that it has not; it will still be built on the footprint of the original garage.

Mr. Epstein noted that the application meets the impervious surface requirements. Mr. Keller asked Mr. Omrow if he had spoken to his adjacent neighbors and if they supported or opposed his proposal. Mr. Omrow submitted a petition signed by 12 of his surrounding neighbors stating that they have no objection to his proposal. Ms. Smith stated that prior to beginning any construction Mr. Omrow should speak to the City Engineering Department regarding the details of the curb cut and the drywell.

### **PUBLIC COMMENTS IN FAVOR**

Anneesa Omrow, Mr. Omrow's daughter and resident of 939 Emmett Street, spoke in support of the proposal. She stated that her father has worked very hard to improve his property and the neighborhood and would not undertake any project that would detract from it. She added that her family likes to host family gatherings outdoors and this would give them a sheltered place to do so.

Deawattie Kumar, resident of 5 Backus Street, spoke in support of the application, stating that Mr. Omrow is an excellent neighbor and would not do anything that would detract from the neighborhood.

Kuhl Harlawall of 3 Backus Street also spoke in support of the application, stating that Mr. Omrow maintains a beautiful property and this new addition will only enhance the neighborhood.

Viganand Omrow, Mr. Omrow's son and resident of 939 Emmett Street, spoke in favor of the application, stating that he has three children and the covered patio will give them a sheltered place to play outside.

A petition containing twelve signatures from the surrounding neighbors in support of the proposal was submitted for the record.

### **PUBLIC COMMENTS IN OPPOSITION**

None.

### **CONTINUED DISCUSSION**

Ms. D'Alessandro-Gilmore stated that she has no objection to the proposal, as none of the neighbors are opposed and it appears to be a straightforward quality-of-life issue. Mr. Connelly agreed, adding that at the May meeting the Board had asked Mr. Omrow to return with more detail if he submitted a revised proposal and he had done so. Mr. Connelly noted that in most circumstances he would not approve of a garage of this size but because it is on a double lot and is following the existing footprint, he has no objection. Ms. Lester stated that she could support the application since the size of the

variance being sought had been drastically reduced and the neighbors had all expressed their support.

**SEQR RESOLUTION**

Motion by Ms. Smith, seconded by Mr. Connelly, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

*Motion carried unanimously.*

**AREA VARIANCE APPROVAL**

Motion by Ms. Smith, seconded by Mr. Connelly, to approve the Area Variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. The variance is not substantial. As requested by the Board at a previous meeting, Mr. Omrow submitted drawings showing the proposed new construction in detail. The drawings also showed the proposed patio in relation to the size of the yard and house.
4. There will be no adverse effect on physical or environmental conditions in the neighborhood.

*Motion carried unanimously.*

**B. JEEWAN SINGH requests an Area Variance for 1222 George Street (49.71-2-26) located in the R-1 Single Family Residential District, to allow for a 354.5 sq. ft. pool and deck where the max lot coverage has already been met pursuant to Schedule C of the Zoning Ordinance.**

Aston McLeary presented the application on behalf of Mr. Singh.

Mr. McLeary explained that Mr. Singh would like to put up a seasonal pool and deck that will be removed at the end of the season. Ms. Smith asked why Mr. Singh would not consider putting the pool on part of the paved area in the yard. Zoning Officer Epstein noted that he would still need a variance because the maximum lot coverage has already been met. Mr. Keller asked if the deck will also be taken down at the end of the season. Mr. McLeary stated that it would be. He explained the proposed construction of the deck and stated that it would be anchored to the ground with stakes. Mr. Epstein noted that even if the variance is granted the deck will still have to meet the appropriate code requirements.

Mr. Epstein noted that seasonal structures are not considered temporary, as they cannot be installed and removed in a few hours. Mr. Connelly commented that the steel-sided pool shown in the application is usually not put up and taken down seasonally. Ms. Smith asked Mr. McLeary if there had

been a pool on the property before, as evidenced by the worn circular area in the lawn. Mr. McLeary stated that there had been a bigger pool there. Mr. Gleason asked Mr. Epstein if the property is a double lot. Mr. Epstein replied that yes, it is much larger than the standard lot on the street.

**PUBLIC COMMENTS IN FAVOR**

None.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

Mr. Keller stated that because of the large size of the lot he does not feel that the pool and deck cover an unreasonable amount of the property. Mr. Gleason agreed. Mr. Keller noted that the size of the lot is unique in that area. Ms. Smith noted that there are no other existing or required variances for the property. The other Board Members indicated that they had no objection to the application.

**SEQR RESOLUTION**

Motion by Mr. Keller, seconded by Ms. D'Alessandro-Gilmore, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

*Motion carried unanimously.*

**AREA VARIANCE APPROVAL**

Motion by Mr. Keller, seconded by Mr. Connelly, to approve the Area Variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. The variance is not substantial.
4. There will be no adverse effect on physical or environmental conditions in the neighborhood.

*Motion carried unanimously.*

- C. RAYA AIKEN BUCKLEY requests a Use Variance for 1013 Nott Street (39.59-2-12) located in the R-2 Two-Family Residential District, to allow for the operation of a Bed & Breakfast which is not an allowed use pursuant to Schedule A of the Zoning Ordinance.**

Raya Aiken Buckley, representative of the estate which owns the property, John Samatulski, the prospective buyer of the property, and Angelo

Campagnano, the Realtor and listing agent for the property, presented the application.

Ms. Buckley began the presentation by giving a brief history of the home. She explained that her family had purchased it from Ellis Hospital, which had used it for housing for nurses. She noted that all of the rooms had individual keyed locks. Ms. Buckley stated that after her mother passed away her family had tried to sell the property privately for about a year and then had it listed for sale with a Realtor for a period of seven months. Mr. Campagnano noted that during that time there had been 37 showings of the property, but the feedback had been that because the kitchen is very small and not near the dining room the house is not conducive to modern family living.

Mr. Samatulski presented his proposal to purchase the property and explained that he would like to have a 6-9 bedroom Inn at the site. He stated that this section of Nott Street had become increasingly commercial over the past few decades, and very heavily trafficked, making the home less suitable for single-family living.

Mr. Gleason asked if there would be staff on-site 24 hours a day. Mr. Samatulski stated that initially there would be a full-time day manager and cleaning staff, and then staff would be added as deemed necessary. Ms. Smith asked if there were any additional pictures of the kitchen in the application. Ms. Buckley stated that there were not.

Mr. Keller noted that the details of Mr. Samatulski's proposal were essentially irrelevant to the discussion because a use variance stays with the property, so any future owner could operate a B&B there if the variance were to be granted. Mr. Gleason asked Mr. Samatulski if there is sufficient parking on-site for the 6-9 guest rooms. Mr. Epstein noted that the code requires one space per room. Mr. Samatulski noted that there are currently 4-6 spaces on-site but there is a large yard that could be partially paved to add the required spaces.

#### **PUBLIC COMMENTS IN FAVOR**

William Aiken, brother of Ms. Buckley, spoke in favor of the application. He stated that if the use variance is not granted it is unclear what will happen to the property.

Mr. Samatulski submitted a petition with the signatures of nineteen City residents indicating their support of his proposal and the use variance. None of the signatures were from neighbors adjacent to or close by the property. Mr. Samatulski stated that he had spoken to neighbors more close by who had indicated to him that they had no objection to the proposal but they were reluctant to sign a petition stating such.

#### **PUBLIC COMMENTS IN OPPOSITION**

Kevin Ellis, resident of 1615 Randolph Road spoke in opposition to the proposal. Mr. Ellis stated that the property had not been maintained properly, and frequently had overgrown grass and untrimmed hedges. He noted that there often is litter in the yard and on the sidewalk. Mr. Ellis stated that he did not believe that a sufficient effort had been made to clean up and market the property.

Elizabeth Sherman, resident of 1560 Randolph Road, spoke in opposition to the application. She read into the record a letter in opposition written and submitted by her daughter, Jennifer Mills, who resides at 1572 Randolph Road, and noted that she believes that the alleged hardship is self-created because the property had only been listed for sale for seven months and had not been cleaned up and made realistically marketable over that time. She commented that if the property was in poor repair it had become that way under the care of the current owners. Mrs. Sherman also noted concerns with the parking of the B&B guests on Randolph Road, which is already clogged with parking from Ellis Hospital employees to the point of often being impassable. She stated that regardless of the merits of Mr. Samatulski proposal, the granting of a Use Variance would allow anyone to operate a B&B at the property, with very little oversight from the City or protection for the surrounding neighbors.

Jay Sherman, resident of 1560 Randolph Road, spoke in opposition to the application. He noted that Mr. Samatulski's proposal spoke of long-term guests, which could also be equated to Union College students, and noted that Mr. Samatulski had indicated that there would not be a manager on-site 24 hours a day, nor would a daily meal be served, both of which are typical to a traditional Bed & Breakfast. He stated that while he knows of Mr. Samatulski's many successful projects within the City he does not feel that a commercial enterprise of this nature is the right fit for this neighborhood, which is completely residential and mostly has single-family, owner-occupied homes.

A letter in opposition to the application from Patricia Drago of 1014 Nott Street was entered into the record. Mrs. Drago cited concerns with the potential additional parking on Randolph Road and the negative impact this type of business would have on an area that is now completely residential.

#### **CONTINUED DISCUSSION**

Ms. D'Alessandro-Gilmore stated that she believes that the proposal is a good one for the property and that she knows Mr. Samatulski to be an excellent developer and champion of the City as a whole. Mr. Clark and Mr. Lester agreed that they liked Mr. Samatulski's proposal. Ms. Lester stated that this area is becoming increasingly commercial and she does not believe that a business of this type would be out of place on Nott Street.

Ms. Smith stated that while she believes that Mr. Samatulski's proposal is a good one, it would significantly change the character of the neighborhood. She added that she does not believe that the small kitchen is an

insurmountable issue in selling the property. Ms. Smith stated that she is not convinced that the property has been marketed for a sufficient amount of time to prove that a reasonable return cannot be realized. Mr. Keller agreed, adding that he believes it is the Board's duty to protect the surrounding residents, who clearly did not support the proposal. He added that he is concerned that the variance stays with the property, and anyone could open a B&B at the site in the future.

Mr. Connelly stated that he knows that Mr. Samatulski has done good work in the City, but he shares Mr. Keller's concerns that the variance stays with the property. He also noted that he is convinced that parking is already a problem in the immediate area, and this could eventually exacerbate that problem.

Ms. D'Alessandro-Gilmore stated that she understands the other Members concerns, but she believes that this proposal is a viable opportunity to protect this property. Zoning Officer Epstein noted that the Board could place restrictions on the variance, such as limiting the B&B to 6 guest rooms. Mr. Gleason asked Mr. Samatulski if he had any comment on the possibility of a limited variance. Mr. Samatulski stated that he would prefer that alternative not be considered due to the tenuous financial feasibility of the project.

Ms. Smith stated that she did not feel that Ms. Buckley had proven a self-created hardship and she could not support the variance. Mr. Keller agreed. Mr. Gleason stated that he believed that all of the Board Members had made up their mind and encouraged that a motion be made.

#### **SEQR RESOLUTION**

Motion by Mr. Keller, seconded by Ms. Smith, to declare the project a Type 1 SEQR action, with no significant impacts on the environment.

*Motion carried unanimously.*

#### **USE VARIANCE DENIAL**

Motion by Mr. Keller, seconded by Ms. Smith, to deny the Use Variance based on the following findings of fact:

1. The applicant can realize a reasonable return with the allowed uses.
2. The alleged hardship relating to the property is not unique and applies to a substantial portion of the district or neighborhood.
3. The requested use variance will alter the essential character of the neighborhood.
4. The alleged hardship has been self-created.

*Motion carried, with Mr. Gleason, Mr. Connelly, Mr. Keller, and Ms. Smith voting in the affirmative and Mr. Clark, Ms. D'Alessandro-Gilmore, and Ms. Lester opposed.*

**VII. MOTION TO ADJOURN**

Motion by Mr. Keller, seconded by Mr. Connelly, to adjourn the meeting.

*Motion carried unanimously.*

Meeting was adjourned at 8:00 p.m.