

City of Schenectady
Board of Zoning Appeals
Meeting Minutes
March 4, 2020

I. CALL TO ORDER

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

After calling the meeting to order 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; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Neighborhood Stabilization Coordinator; Jennifer Mills, Secretary

EXCUSED: David Connelly

ABSENT: Fred Clark

III. CONFLICT OF INTEREST CHECK

None.

IV. APPROVAL OF MEETING MINUTES

Motion by Mr. Keller, seconded by Ms. D'Alessandro-Gilmore, to approve the Minutes of the February 5, 2020 meeting as submitted.

Motion carried unanimously, with Ms. Smith recusing herself from the vote.

V. NEW BUSINESS - APPLICATIONS

A. SAM P. RAJ requests a use variance for 1683 Foster Avenue (39.42-1-10) located in the R-2 Two Family Zoning District, to allow for a restaurant, which is not an allowed use pursuant to Schedule A of the Zoning Ordinance.

Sam Raj and Michael Wilk, residents of 1683-1685 Foster Avenue, presented the application.

Mr. Wilk stated that Mr. Raj has a potential buyer for his property who would like to live in the residential unit on the second floor of the building and open

a small wine bar on the first floor, in the space that was formerly occupied by several different bars or restaurants. Mr. Wilk stated that the application contained evidence that the first floor of the building had housed several different bar or restaurant businesses as far back as 1973. Mr. Raj stated that when he bought the building in 2010, he had planned to open a café on the first floor, but subsequently had to move out of the area for work and thus the building sat vacant for several years. He stated that since 2010 he has tried several times to lease or sell the building but has been unable to do so.

Mr. Keller asked Mr. Raj to explain why he does not believe that the hardship was self-created. Mr. Wilk stated that Mr. Raj believed that the commercial use was grandfathered and did not have a time limit on its feasibility. Ms. Smith asked Mr. Raj if the business was operating when he purchased the building. Mr. Raj stated that it was not. Mr. Epstein noted that it is the City's belief that the restaurant had been operating within 2 years of the time of purchase, so the use would have been grandfathered when Mr. Raj took ownership of the property. Mr. Gleason asked if there is parking on the site. Mr. Wilk stated that there is a driveway and a space for a few cars in the driveway, along with several other spaces that could fit in the rear yard if the existing garage is removed. He noted that the neighboring Riccitello's restaurant has two large parking lots and appears to have more than adequate available parking, and thus he had suggested to the potential buyer that perhaps he could work out a shared parking agreement with the owners of that business.

Ms. D'Alessandro-Gilmore asked Mr. Raj if he has a signed purchase contract on the property that is contingent on the granting of the use variance. Mr. Raj stated that he does. Ms. Smith asked Mr. Raj what he paid for the property when he purchased it. Mr. Raj stated that he paid \$29,000. He added that he had put the property on the market for two months in 2012 for \$80,000 but saw no interested buyers, and he then put it back up for sale in 2019, after many upgrades, for \$170,000. Mr. Wilk stated that converting the first floor to a residential unit would bring Mr. Raj's investment in the property to far more than it is worth. He added that the closest comparable two-unit residential building on Foster Avenue is listed for \$115,000 and as had little interest in it. Mr. Wilk stated that the property was on the market in 2019 for five months but had no offers or significant interest. He stated that he and Mr. Raj know the potential buyer through his other restaurant, and through discussions with him they had come to a mutually agreeable arrangement for the sale of the property.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

Richard Carroll, owner of 1663-1669 Foster Avenue, spoke in opposition to the application. Mr. Carroll stated that he has concerns regarding adequate available parking for a restaurant or bar business, as well as the possible negative impact this type of business could have on the quality of life of the surrounding neighbors.

Lynn Ragozzino, resident and property owner at 1702 Foster Avenue, spoke in opposition to the application. Ms. Ragozzino expressed her concerns regarding inadequate parking in the area and the negative impact a bar/restaurant might have on the surrounding area.

A letter in opposition to the application from Marilyn Lane, property owner and resident of 1694-1696 Foster Avenue, was entered into the record. Ms. Lane stated that previous bars on the site caused many problems with vandalism and excessive noise in the neighborhood. She added that she does not feel that there is adequate parking available for a business of this type.

A letter in opposition to the application from Camille Sasnowski, resident of 537 Clarendon Street, Kristine Moore, Barb Estes, and another Northside resident was entered into the record. The letter cited concerns with the negative impact this type of business could have on the surrounding neighborhood and noted the lack of adequate parking in the area.

CONTINUED DISCUSSION

Ms. D'Alessandro stated that she has no objection to the property's potential use as a wine bar, but she does not feel that the applicant has been able to prove that the hardship is self-created. Mr. Gleason agreed, adding that while this particular project does not seem objectionable the variance stays with the property and in the future a less responsible proprietor could open a bar or restaurant of any type there. Ms. Smith stated that she does not feel that the applicant was able to prove a financial hardship, as the property was listed for sale for a total of seven months over ten years. Mr. Keller stated that he believes that the financial hardship criteria might have been met, but that there had been no significant evidence presented proving that the hardship is not self-created. He stated that Mr. Raj's not being aware of the code is not a sufficient reason. The other Board Members agreed.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Mr. Keller, to adopt a Negative Declaration on this unlisted action pursuant to SEQRA based upon the review and assessment of the Short Environmental Forms Part 1 and 2, with the Negative Declaration being set forth in Part 3 of the Short Form Environmental Assessment Form.

Motion carried unanimously.

USE VARIANCE DENIAL

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

1. The alleged hardship is not self-created. When the applicant purchased the building the use was grandfathered, however the applicant failed to avail himself of that use prior to the allowed time limit expiring.

Motion carried unanimously.

VII. MOTION TO ADJOURN

Motion by Mr. Keller, seconded by Ms. Lester, to adjourn the meeting.

Motion carried unanimously.

Meeting was adjourned at 7:23 p.m.