Zoning Board of Appeals
Minutes
September 19, 2019

Present **Absent**

Chairman Dole
Dale Kellerson
Diana Powell Keery
Mark Unvericht

Also Present

Zoning Board Attorney Eric Stowe
Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Mike Burke
Terri Knighton
Carol Nellis-Ewell
Chris Schultz
Larry Fenity
Jack Howitt
Robert Fallone
Betsy Brugg
David Kruse
Bill Ewsuk
Liz Veneky
Anthony & Alba Alonci
Tom Coburn
Craig Byham
Michael Koyoumjian

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Theresa Knighton, 120 Nichols Street, Spencerport, New York 14459, for a special permit and two(2) area variances to allow approximately 100' of 6'tall privacy fence located outside of the side setback, on property located at same, whereas, a special permit form the Zoning Board of Appeals shall be required for a privacy fence and any privacy fence must be located not nearer to a side line than the required side line setback and a privacy fence shall not exceed a total length of 65 feet respectively pursuant to Chapter 340-32 A (4)(a), Chapter 340-32 A(4)(b) in a Residential District.

Theresa Knighton: You have the pictures. What I have on the side of my garage is three privacy panels. They are 6' high and 18'.4" wide. On the back part they are 6' high and 12".7" wide. From the edge of the privacy fence to my neighbors' yard. Which I did get permission from him. We connected a chain link

Theresa Knighton: fence which has a 5' gate so we can go in and out and attached it to his fence. He gave us permission because his dogs have electric collars and he didn't want us to dig holes. That would be 15' long and 4' inches high. On the west side of the house I have 10'.8" chain link fence. From the chain link I have 3 privacy fences 6' high and 18'.4" long. Then I have 70' of chain link fence to my neighbors' fence but it is not connected. I didn't have any complaints from anyone. The only reason that I did that is that I had Rosa Sharon's and I hate bees and I got tired of cutting them. So, we cut them down and everyone else had a fence so we thought we would connect to their fence. I have two dogs that like to escape.

Chairman Dole: I see that you have some of the fencing up already?

Theresa Knighton: Yes, it is all up.

Chairman Dole: You didn't know you had to come here.

Theresa Knighton: No, it was already there when I got the letter.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Code Enforcement Officer and the board if they have any comments.

Dale Kellerson: No, I was there to clarify the pictures. Like you said it is already up, so it is a real good visual. I have no issues.

RESOLUTION
425/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Theresa Knighton, 120 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 120 Nichols Street, Spencerport, New York 14559; and for an area variance to erect one hundred (100') linear feet of privacy fence on property at 120 Nichols Street, Spencerport, New York 14559; and for an area variance to install said privacy fence on the side property boundary line at said property.

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA; and

WHEREAS, an application for an area variance for a single-family residence is a Type II Action not requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Theresa Knighton 120 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 120 Nichols Street, Spencerport, New York 14559, is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidence supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals

makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
426/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Theresa Knighton, 120 Nichols Street, Spencerport, New York 14559 for a special permit to allow one hundred feet (100') of privacy fence on property located at 120 Nichols Street, Spencerport, New York 14559 and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 19th day of September, 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to Theresa Knighton, 120 Nichols Street, Spencerport, New York 14559 for a special permit to allow one hundred feet (100') of privacy fence on property located at 120 Nichols Street, Spencerport, New York 14559.

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- ☐ Required to get a Building Permit;
- ☐ _____;
- ☐ _____;

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
427/2019

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Theresa Knighton, 120 Nichols Street, Spencerport, New York 14559 for an area variance to erect one hundred (100') linear feet of privacy fence on property at 120 Nichols Street, Spencerport, New York 14559; and

for an area variance to install said privacy fence on the side property boundary line at said property, having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
   i. _____
   ii. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:
   i. _____
   ii. _____
3. The area variances are not substantial because:
   i. _____
   ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
   i. _____
   ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variances requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

i. Required to get a Building Permit
ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

The application of St. John the Evangelist Church, 55 Martha Street, Spencerport, New York 14559, for an area variance to construct a 748 square foot addition to an existing accessory structure for a total square footage of 1408 square feet on property located at same, whereas, the maximum square footage for a Class II accessory building is 1000 square feet pursuant to 340-14 E in a R1 Residential District.

Mike Burke: I represent St. John's Church. We have an existing garage building in the parking lot. We want to add to that by 660 square feet. Which puts us a little bit over the maximum as a Class II building.

Chairman Dole: What is it the other building going to be used for.

Mike Burke: Just a storage building. In the one building we store the lawn mowers, materials and tools. It is very, very tight in there. When the wintertime comes, we have bags of salt in there for the sidewalks. It is a non-heated utility storage building. Pole barn construction.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Code Enforcement Officer and the board if they have any comments.

Mark Unvericht: Where the garage sits today you have the donation shed next to it. So, this building will go in between the two?

Mike Burke: Yes, the donation shed is portable so we could move it.

Diana Powell Keery: I'm good all the issues that I had were taken care of.

Dale Kellerson: I guess my thing is more the donation shed itself. Now you are going to have three structures in one spot.

Mike Burke: It is still kind of two as this is an addition to the garage. It will be all one building. Then the portable donation shed will stay where it is but can go somewhere else if it needs to.

Dale Kellerson: It is going to be close now it is oversized with what are requirements are. I know you are going for the variance to have a bigger area. I just thought that having that other structure there it would be an awful lot of buildings in the parking lot. I wasn't sure if we could ask to have it put somewhere else.

Building Inspector Smith: I don't think we regulate the donation shed because it is not a structure that is owned by the church. I don't know if we ever discussed how to classify that. What they are putting on is attached to the other building. They won't have two. It will look a little different. The heights are different, but they all fall into the same category as one building. Even though they look different. I wasn't even calculating the other building as a building on their property because it is a donation drop off.

Dale Kellerson: I know where it is now is convenient and if it is not seen people might not use it.

Mike Burke: Most of the traffic is not related to the church it is people putting stuff in the donation shed. It is definitely a community thing.

Attorney Stowe: I don't think it would qualify a structure under our code. It is not anchored; it doesn't have a foundation.

RESOLUTION
428/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from St. John the Evangelist Church, 55 Martha Street, Spencerport, New York 14559 for an area variance to erect a seven hundred forty-eight square foot addition to an existing accessory structure on property at 55 Martha Street, Spencerport, New York 14559 for a total square footage of one thousand four hundred eight square feet; and

WHEREAS, an application for an area variance of this type is an unlisted action requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of St. John the Evangelist Church, 55 Martha Street, Spencerport, New York 14559 for an area variance to erect a seven hundred forty-eight square foot addition to an existing accessory structure on property at 55 Martha Street, Spencerport, New York 14559 is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidence supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
429/2019

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of St. John the Evangelist Church, 55 Martha Street, Spencerport, New York 14559 for an area variance to erect a seven hundred forty-eight square foot addition to an existing accessory structure on property at 55 Martha Street, Spencerport, New York 14559 for a total square footage of one thousand four hundred eight square feet, having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
   i. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:
   i. _____
   ii. _____
3. The area variances are not substantial because:
   i. _____
   ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
   i. _____
   ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variances requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

i. _____
ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

The application of Michael Koyoumjian, 12 Hillside Drive, Spencerport, New York 14559, for an area variance to construct an 8'X24' accessory structure in addition to the existing 192 square foot accessory structure on property located at same, whereas, only one Class II structure shall be allowed pursuant to 340-14 D in an R1 Residential District.

Michael Koyoumjian: We need a little more room for lawn furniture, snow blower. I built one shed myself and realized over the years that it isn't big enough. With the layout of the yard it just makes more sense to the other shed on the other side. It would make it look for uniform and the shed that I proposed will look the same basically as the one we have. As our yard is pie shaped, we had to make it long it will be 8 X 24. When I went to get a permit, I found out that you are allowed one shed up to 1,000 square feet. Which is almost as big as our house. But a second shed can only be 120 square feet. So, what I have asked is to have the variance to add the second shed. I have to ask if I build a shed on skids to do I need a variance. Because the donation shed didn't need one.

Building Inspector Smith: The donation structure is not considered an accessory structure as it can be taken away and it is not-for-profit.

Michael Koyoumjian: That make sense.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Code Enforcement Officer and the board if they have any comments.

Dale Kellerson: It looks like it will be tucked in behind trees.

Michael Koyoumjian: Yes, and because our lot is pie shaped it will benefit our neighbors. Because if we sit in the backyard, we can look right into our neighbors' living room. It will give us both some privacy. We had a large tree there that was taken down a couple months ago and that was kind of natural privacy. So that pushed us to go ahead and add another shed. I didn't realize there was a restriction when I went to get the permit, they said you can't as you used your 1,000 maximum.

RESOLUTION
430/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Michael Koyoumjian, 12 Hillside Drive, Spencerport, New York 14559 for an area variance to erect a 8x24 foot accessory structure, in addition to the existing 192 square foot accessory structure located on the premises, whereas only one Class II Structure is permitted.
WHEREAS, an application for an area variance for a single-family residence is a Type II Action not requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Michael Koyoumjian, 12 Hillside Drive, Spencerport, New York 14559 for an area variance to erect a 8x24 foot accessory structure, in addition to the existing 192 square foot accessory structure located on the premises, is a Type II Action not requiring any further review.

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
431/2019

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Michael Koyoumjian, 12 Hillside Drive, Spencerport, New York 14559 for an area variance to erect a 8x24 foot accessory structure, in addition to the existing 192 square foot accessory structure located on the premises, whereas only one Class II Structure is permitted ,having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
   i. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:

i. _____
ii. _____

3. The area variances are not substantial because:
   i. _____
   ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
   i. _____
   ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variances requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

i. _____
ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

The application of Union Spencerport, LLC, 148 S. Union Street, Spencerport, New York 14559, for a Special Permit to allow a residential use in a B-1 District, whereas, this use may be permitted by the Zoning of Appeals; and to allow parking on lots within 500 feet of the building, whereas, All parking spaces provided pursuant to this section shall be on the same lot with the building, except the Board of Appeals may permit the parking spaces to be on any lot within 500 feet of the building if it determines that it is impractical to provide parking on the same lot with the building; and for an area variance to allow a building height of 42 feet, whereas, 35 feet maximum is allowed, respectively pursuant to Chapter 340-19 B (6), Chapter 340-29 B, and Chapter 340-21 C (3) in a Commercial B-1 District.

Betsy Brugg: I am an attorney with Woods, Oviatt Gillman and I represent this application of Dr. Robert Fallone and Dr. Jack Howitt who are here they are the developers. We have with us: Chris Schultz, Project Engineer; Dave Kruse, Traffic Engineer who will be talking about parking, and Larry Fenity, Architect. So, this is our team. We are hear as our second step in this application. We have to the Planning board and received preliminary approval for the site plan. I am all sure you are familiar with the corner; it is a vacant corner. It is about .1 acres in size in the B-1 District. It has been vacant for some time. It is a prominent corner. We want to do something that will define that intersection. Do something meaningful to enhance the village. Consistent with village urban design. It is a mixed-use project. Three stories mix of commercial on the first floor and a mix of one- and two-bedroom apartments 12 in total. We also have seven parking spaces behind the building also in the site. We are here tonight because we need some approvals from the Zoning Board if this project is to move forward. The first being a special permit to allows residential use in a B-1 District and it needs to be secondary to another use. We have retail/commercial on the first floor. The tenant is not yet defined and the apartments. We also need approval from the board to allow parking to be off of the lot within 500 hundred feet. That is the second and the third is the height variance. Which is just really for the corner of the building. There are some legal standards for the special permit. I am happy to go through them, but I addressed them in the application for efficiency sake. I do believe we satisfy all the legal considerations in your code. The same thing with the area variance, I addressed those in writing, but I will probably tough on those a little bit and explain the items that we are requesting. I hope everyone agrees that this is a really good project. It is an opportunity to do something that enhances the village. The residential in urban areas in villages is essential to create thriving communities to keeping activity on the street. To putting pedestrians on the street 12 months of the year. Not just when the weather is good or not to drive out to walk the canal. So, they are important to the ability of smaller business specially to thrive. As far as the units they are one- and two-bedroom units. We do feel that not only will the units be a great addition to the community by having residents living in the village but that the building itself will be a significant contribution to enhancing the appearance of that intersection. We need a defining structure as this is a main intersection. As for the special use permit, we did go through all the criteria in your code. There are quite a few of them. I don't think we have any adverse impacts that would be generated by having apartments in this location. I think we are going to improve what is otherwise a vacant property and bring in something that is not only economically viable to develop on the corner. It will add to the community. We know that from the very beginning that the issue has been the parking in the village. Concerns with making sure that is there are apartments with the parking to make sure there is enough parking to accommodate the use. The planning board spent quite a bit of time looking at that and Dave is here to answer and questions. A parking study was done, and he did evaluate all the parking in the area and there is more than enough parking to accommodate this project plus some. So, there will not be an undue burden on the parking situation on the village. We can give you more information and go into detail on that if it would be helpful. The planning board did approve a reduction in the required parking for the project as part of their site plan approval. We are adding seven spaces that will be dedicated to the project. That was a modification we did while going through the planning board process with the way the parking was designed. The project will maintain the parking spaces. We are proposing to use some of the public parking to accommodate the additional parking needs. This type of a project is a lessor in terms of user. If there had been a straight commercial there might be more of an issue with the parking demand. Fortunately, the peak times for residential use of parking are different then business uses. We don't think we are going to have significant adverse impact on the existing business. If anything, we will be bringing some potential

Betsy Brugg continued: customers into the village. The height we do have an analysis that Chris's office has put together. At this point I am going to let Larry talk as he has a beautiful building.

Larry Fenity: If you look at the dimension, we put on here as you the requirement for height is a maximum of three stories or 35 feet. If you look back it was tied into what fire truck used to be able to do. We are really trying to tie into what the rest of the village. If you look at the dimension we have on the drawing. We have a little problem that we have a falling site. It falls almost two and half feet from one end to the other. Here at the corner I put the tallest part. Which is the lowest part of the site. We really wanted to have a strong feature at the corner as Betsy was saying this is the four corners of the village. It is four corners because there is a traffic light. We are wanting to say this is where the business district kind of gets going. As you can see from the dimensions that are on here the highest point is at the top of this pediment here. If we were really concerned to make the variances work, we would take the pediment away and have a much less attractive building. I live here I don't want to build an ugly building in the village. As you can see from what we sent out that has the heights of everything as we go up the hill there are a number of buildings that are actually taller in terms of above sea level. The reason why that makes a difference as you are driving into the village from either the north of the south that is your point of reference. While this is going to be taller because it is at the low point of this area it is not way above the other building. This point anchors the building and the corner. In terms of the variance we are just looking at the corner piece with most of it being the two pediments that stick up. I should mention that there is no definition in your code about what height is. Would suggest that when you are fixing things that you look at that. Our poor Building Inspector here had to come up with a condition for that. We talked about it sometimes it is the floor level of the building, sometimes it's an average of the grade around the building. In interest to what makes it work the best. We took the survey from the lowest to the highest around the building. I have no problem with that but that is why we had to ask for this variance.

Mark Unvericht: On that third-floor apartment that is going to have that high spot. Is it actually going to be physically taller than what is next to it?

Larry Fenity: The ceiling will be a little bit taller, but we are also going to hide air conditioning equipment etc. up there. It is a building that can be seen from three different sides so by having a taller parapet in this area we can hide mechanically equipment.

Dale Kellerson: You brought up the architecture part with the ARB so the height isn't really too big a deal to me having that piece on the corner it is really there. I'm guessing that the ARB took that into consideration.

Larry: Yes, by creating this vertically element here. The eye says ok that this and this these are two different things even though they are tied together with colors and everything. It helps break the mass up and tie into the variety in the village.

Dale Kellerson: Having that high is that what you actually needed to show that difference.

Larry Fenity: It was my judgement that the portions work very well, and I am also trying to get enough of a parapet wall to be able to hide some of our roof top equipment.

Dale Kellerson: Maybe it's the design on paper make it look higher.

Larry Fenity: Yes, you are looking up at it. We are trying to make drawings look like real life.

Diana Powell Keery: The back of the building it is showing a dumpster enclosure. You said first floor is commercial. I was just wondering what is on the back of the building.

Kris Schultz: That is from an earlier site plan drawing it is gone now.

Diana Powell Keery: I was just wondering what the back would be looking at. Is it commercial all the around on the first floor?

At this time Larry Fenity reviewed the drawings with the board showing where the commercial and residential would be.

Chairman Dole: One of the criteria we have to look at in the business district is that residential is secondary to commercial or retail. The building itself looks like it's going to be 80/20.

Betsy Brugg: My thoughts on that is that this is a commercial district, so you want people to walk the streets and a shop to walk into. What goes on above is more discreet. Nobody know what is going on upstairs. If you are coming into the village what is going to define the location. It is whatever the sign is that invites you in. The code uses secondary, it doesn't say accessory to. It doesn't require and accessory use or a subordinate use. It is not the most important use on the site, just a second use. That's why if the apartments were in the front it would be an issue. The apartments in the back are really hidden. Somebody walking through the village they are not going to look up won't know. It could be an office for all they know. It is much more discreet. The apartments may have more square footage, but they are not the defining use on the site.

Dale Kellerson: That would be dependent on what business goes in there. But you won't know that until it happens. Having that retail space is really small on that level. I am not sure how much will be that draw.

Betsy Brugg: Right I don't know if you experience this in the village, but it is tough getting retail uses anywhere these days. The small spaces on the first floor are very appealing. Together they create what is village. Nobody wants to be the only little shop around. I think it will be nice retail it will be a nice modern space. The back units have handicap accessibility benefit to it. Very inviting.

Larry Fenity: It will have an elevator in it. The units are all good size.

Anthony Alonci: This is my wife and we only the red building and own Grandpa Sam's. Bob, Jack have presented the plans to me. I have absolutely no problem with them building the building. They have my blessing. I do have a couple things first of all where is all the heavy equipment going to be parked during the construction? We have no parking on the street and our customers will have to walk around the entire building site to get to our restaurant. That presents an issue. Will there be an area for our customers? The second thing is they are going to slap their building up against our building which is fine, but they are going to take the windows off the second floor of my building. The two windows over on the right is a

Anthony Alonci continues: bedroom and on the side of the building is the same bedroom. That bedroom will still have windows, but the other windows will disappear. However, if there is an egress problems or legal problems. Anything whatsoever that has to be done to my building so they can make their building work. It's on their shoulders not mine.

Chairman Dole: That wouldn't be part of this board to make that call anyway.

Betsy Brugg: I can address the staging as it came up at the planning board. It is a requirement from the planning board that the applicant will have a pre-construction meeting with the village to determine the best location for staging the materials for construction and for parking the equipment. That will all happen before the construction begins.

Anthony Alonci: The back is the only place that my customers can park.

Kris Schultz: Yes, that was discussed that no parking can be in any village parking lots. Most likely we will come up with a scenario similar to what the folks are using for the bridge. It will be in the village but not impacting the business. We also will be making sure the sidewalks on Union Street open for pedestrian access.

Anthony Alonci: Even as far as while you are working on this you allow us to park on the street during the construction.

Chairman Dole: That is a state highway.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Code Enforcement Officer and the board if they have any comments.

Attorney Stowe stated that he hadn't thought about Ms. Brugg's comment primary vs. secondary. But in listen you don't say where do you live, they wouldn't say in the red building. They would say above Grandpa Sam's. So, what is the primary and how do you define it. I hadn't looked at that way, but I think it makes sense.

Dale Kellerson: Most of the conversation is around the apartments. I do understand the rest of the village has the same thing. You have your business' in the front. Not sure how far back they go. I have never paid to much attention. I guess it is just normal. We have it in the comprehensive plan. What we want is retail on the bottom and living above it. I am surprised there is not more discussion around the parking. I keep thinking the residents of the building will take up a lot of parking.

Betsy Brugg: The planning board spent a lot of time on the parking and the parking study was included in the packet. Your code has a 500 ft provision, so we applied for relief from it.

Dale Kellerson: I guess I am thinking of the business'.

Dave Kruse: I am the Transformation Planner from SRF and Associates. I am a resident of the Village of Fairport. We were dead set on moving to a village because of its amenities and it's walk ability. I see a lot of similarities between Spencerport and Fairport. There is a high level of walk ability. What I just passed out is the time of day factors for each typical land use for the Village of Spencerport. With the residential highlighted in red. We are seeing here that residential on an hour by hour basis dips down to its lowest during that mid-day peak. During your mid-day peak you are still only at 68% of use. This use goes down significantly during the overnight hours. I did spend some time out here at 3 am observing the parking. There was about 12 % occupancy amongst all the lots. So that is when you are going to have your peak residential use. What we are essential saying is that at its site peak you are generating about 20 more vehicles which is at about 7pm. With the understanding that lot 1 behind Grandpa Sam's during evening hours is a heavily used at that time. But the remaining lots within walking distance those are available.

Anthony Alonci: At that 7 o'clock timeframe my big concern as I understand about the shared parking and everything else you are saying that the numbers will work. I have two residents up in the building and on a Friday night or Saturday night, and it happens about every other week. One of the tenants' calls me up and says Tony there is no place back here to park can I park behind the dock. So, I say yes as I don't have any trucks coming tonight. So, if one person if looking for a parking spot because they live there. What are twelve people going to be look for. Is there a way of knowing that they are going to park somewhere else other than taking my customers parking spots during the peak hours on a Friday night. Because if it gets filled up with tenants' cars where are my customers going to park. That's the big issue. I know the numbers work but that is not going to stop them from taking my customers parking spots. A tenant is not going to go park behind Tops because Grandpa Sam's is open. They are going to go for the closest spot no matter what. I already don't have any parking spots in the front and that's the only spot that my customers have to park.

Dave Kruse: There are ways to tackle that issue and it is a real issue too as people want to park as close as possible to their destination. I am sensitive to that. I don't want to speak out of turn, that a developer/property manager can police that. Through policies and regulations. Depending on the demographic that may be encouraged to park a little farther and walk.

Betsy Brugg: I can add to that. After we get through this process should we get the approvals we will be talking to the Village and they will probably have to post some locations as overnight parking. They currently have some now and will be posting some additional ones. That has not been decided yet and that is not what this board is doing.

Anthony Alonci: I know in that past my tenants have been told to park along the grass line. Which they do.

Attorney Stowe: Remember in a municipal lot we can't say one parcel gets to use it and one parcel does not. In a municipal lot it is first come first serve.

RESOLUTION
432/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Union Spencerport, LLC, 148 S Union Street, Spencerport, New York 14559 for an area variance to allow a building having a height of forty-two feet (42'); for a special permit to allow a residential use in a B-1 District and for a special permit to allow parking on locations other than the parcel and occurring within 500 feet of the parcel at 148 S Union Street; and

WHEREAS, an application for an area variance of this type is an unlisted action requiring review under SEQRA; and

WHEREAS, an application for a special permit is an unlisted action requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Union Spencerport, LLC, 148 S Union Street, Spencerport, New York 14559 for an area variance to allow a building having a height of forty-two feet (42'); for a special permit to allow a residential use in a B-1 District and for a special permit to allow parking on locations other than the parcel and occurring within 500 feet of the parcel at 148 S Union Street, Spencerport, New York 14559 are Unlisted Actions and based upon the information contained in the Short Form Environmental Assessment Form and evidence supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
433/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Union Spencerport, LLC, 148 S Union Street, Spencerport, New York 14559 for a special permit to allow a residential use in a B-1 District on property located at 148 S Union Street, Spencerport, New York 14559 and for a special permit to allow parking on locations other than the parcel and occurring within 500 feet of the parcel at 148 S Union Street; and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 19th day of Spencerport, 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to Union Spencerport, LLC, 148 S Union Street, Spencerport, New York 14559 for a special permit to allow a residential use in a B-1 District on property located at 148 S Union Street, Spencerport, New York 14559 and for a special permit to allow parking on locations other than the parcel and occurring within 500 feet of the parcel at 148 S Union Street.

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- ☐ _____;
- ☐ _____;
- ☐ _____;

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
434/2019

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Union Spencerport, LLC, 148 S Union Street, Spencerport, New York 14559 for an area variance to allow a building having a height of forty-two feet (42'), whereas a building shall have a maximum height of thirty-five feet (35') ,having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
   i. _____
   ii. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:
   i. _____
   ii. _____
3. The area variances are not substantial because:
   i. _____
   ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
   i. _____
   ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variances requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

i. _____
ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

Unfinished Business

William Ewsuk – 233 Hilltop Lane

Motion made by Chairman Dole and seconded by Diana Powell Keery to un-table the resolution 424/2019 from August 15, 2019 the application of William Ewsuk.

At this time Chairman Dole opened it back up to the board for any further comments or questions.

Diane Powell Keery: I have reviewed the application and last month's meeting minutes. I'm all set.

Chairman Dole asked Mr. Ewsuk if there were any changes to what you are asking for.

Bill Ewsuk: The trailer is not parked there now.

Chairman Dole: Will you ever be bringing it back?

Bill Ewsuk: It depends on the approval.

RESOLUTION
422/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from William Ewsuk for a special permit to allow a second ancillary vehicle to be parked on property at 233 Hilltop Lane, Spencerport, New York 14559, and

WHEREAS, the application for a special permit is an unlisted action pursuant to the New York State Environmental Quality Review Act (SEQRA), and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 15th day of August, 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has considered the short environment assessment form and the evidence obtained from the public hearing,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby conclude that the application of William Ewsuk will have no negative environmental impacts and does hereby issue a negative declaration pursuant to SEQRA.

BE IT FURTHER RESOLVED that the Chairman of the Village of Spencerport Zoning Board of Appeals is directed to sign Part III of the short environmental assessment form confirming this negative declaration.

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
423/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from William Ewsuk for a special permit to allow a second ancillary vehicle to be parked on property at 233 Hilltop Lane, Spencerport, New York 14559, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 15th day of August, 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to William Ewsuk for a special permit to allow a second ancillary vehicle to be parked on property at 233 Hilltop Lane, Spencerport, New York 14559

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- _____;
- _____;

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: None
Nays: Dole, Kellerson, Powell Keery, Unvericht

Motion Denied

New Business
Nothing requiring board action.

Approval of Minutes

Motion made by Chairman Dole Seconded by Mark Unvericht carried unanimously to approve the August 15, 2019 minutes.

Adjournment

Motion made by Chairman Dole seconded by Diana Powell Keery and carried unanimously to adjourn the regular meeting at 8:05 pm.