Zoning Board of Appeals
Minutes
November 15, 2018

Present

Chairman Dole
Dale Kellerson
Michael Flavin
Diana Powell Keery
Mark Unvericht

Absent

Also Present

Zoning Board Attorney Eric Stowe
Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Anthony DelleFave
Jillian & Chris Wojtowicz
Jeff Cook
Kristin Merle
Joan Quigley
Kevin Watson
Carol Nellis-Ewell

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Village Woods-Cook representing the University of Rochester, for a Special Permit to operate a Health Care Facility in a Business-3 District located at 42 Nichols Street, Spencerport, New York 14559, whereas, the following uses shall be permitted in all B Districts categories, subject in each case to the granting of a special permit by the Zoning Board of Appeals after a public hearing as provided in Article IX pursuant to Chapter 340-19 B (8) in a B-3 District.

Jeffrey Cook: I am the owner of the Plaza

Kristen Merle: I am the architect from Dwyer Architectural.

Jeffrey Cook: So, we have a small suite that is about 1300 sq. ft. that has been vacant since we bought the plaza two years ago. The U of R is interest in putting in a blood lab in that space.

Kristen Merle: The U of R has space already on both ends of that building now.

Chairman Dole: Normally on a Special Permit we give a 5-year renewal basis. I know that last time the U of R came in front of us, they came back and asked for additional. Do you need additional time?

Jeffrey Cook: The lease that we have signed is a 5-year lease with two or three options for 5 additional years.

Chairman Dole: The hours of the blood lab?

Kristen Merle: Normal business hours. It is just for blood draw.

Michael Flavin: You are not going to have a testing lab.

Kristen Merle: No, it will be all sent out.

Jill Wojtowicz: Where is this?

Michael Flavin: Behind McDonald's.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Building Inspector Smith: I have no concerns and they presented me with efficient plans for a building permit. Right before issuing the permit is when I realized it needed a Special Permit. The fact that they have already gone to this board for a Special Permit for the U of R at the end of the building I wasn't a hundred present sure if they need it again. Called and spoke with Mr. Stowe who said yes, we do. That is why we are here to get it as quick as possible, so we don't' hold them up on the construction.

Attorney Stowe: That this is just specific to Suite 5.

Dale Kellerson: So, this would fill up the plaza then?

Jeffrey Cook: Correct.

RESOLUTION
394/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Village Woods-Cook, representing the University of Rochester for a special permit to operate a health care facility at 42 Nichols Street, Suite 5, Spencerport, New York 14559; and

WHEREAS, an application for a special use 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 Village Woods-Cook, representing the University of Rochester for a special permit to operate a health care facility at 42 Nichols Street, Suite 5, 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 evidenced 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: Michael Flavin

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

RESOLUTION
395/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Village Woods-Cook, representing the University of Rochester for a special permit to operate a health care facility at 42 Nichols Street, Suite 5, Spencerport, New York 14559; and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 15th day of November, 2018, 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 the University of Rochester for a special permit to operate a health care facility at 42 Nichols Street, Suite 5, Spencerport, New York 14559;

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

- This Special Permit shall expire 10 years from today's date;

Motion: Chairman Dole
Second: Dale Kellerson

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

Unfinished Business

Application of Lisa & Kevin Watson

Motion made by Diana Powell Keery Seconded by Chairman Dole to un-table the resolution from October 18, 2018 the application of Lisa & Kevin Watson and carried unanimously.

Diana Powell Keery: With regard to 155 Maplewood Avenue there are some finds of fact that the ZBA has a duty to base our decision on the creditable facts of this case and to take into careful consideration the discussions from the public hearing. The facts in this case with regards to the pre-existing non-conforming use are the affidavits of John Hubbard, Maryann Carrol, and Joan Quigley. Affidavits are written statements confirmed by both our affirmation and that can be used as evidence in a court of law. A further fact in this case is the letter from Richard McQuilkin, Village of Spencerport's Code Enforcement Officer stating that there had been no complaints or violations with regards to 155 Maplewood Avenue. Base on these finds of fact and taking into consideration the discussions from the public hearing I move that.

RESOLUTION
391/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Lisa Watson, 150 Maplewood Avenue, Spencerport, New York 14559 for an interpretation of a determination made concerning a pre-existing, non-conforming use on property located at 155 Maplewood Avenue, Spencerport, New York 14559

WHEREAS, an interpretation of a zoning law 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 Lisa Watson, 150 Maplewood Avenue, Spencerport, New York 14559 for an interpretation of a determination made concerning a pre-existing, non-conforming use on property located at 155 Maplewood Avenue, Spencerport, New York 14559, is a Type II Action and will have no significant environmental impact and issues a Negative Declaration.

Motion: Diana Powell Keery
Second: Chairman Dole

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

RESOLUTION
392/2018

The Village of Spencerport Zoning Board of Appeals, having reviewed the application of Lisa Watson, 150 Maplewood Avenue, Spencerport, New York 14559, for an interpretation of a determination made June 20, 2018 concerning a pre-existing, non-conforming use of a second residential building on property located at 155 Maplewood Avenue, Spencerport, New York 14559, having considered, among other things:

1. The comments made by the public during a public hearing held on October 18, 2018.
2. The submission of Lisa Watson requesting the interpretation.
3. The submission of Anthony J. DelleFave, Esq. as attorney for Jillian and Chris Wojtowicz, owners of 155 Maplewood Avenue.

And after due deliberation, hereby wholly affirms the determination of June 20, 2018 deeming the second residential structure on property located at 155 Maplewood Avenue, Spencerport, New York 14559 to be pre-existing, non-conforming use, as set forth in the Code of the Village of Spencerport Section 340-31(A) that had never been abandoned as set forth in the Code of the Village of Spencerport Section 340-31 (C).

The Zoning Board of Appeals having further made the following findings of fact:

a. The signed and notarized affidavit regarding 155 Maplewood Avenue, Spencerport, New York of John G. Hubbard.

b. The signed and notarized affidavit regarding 155 Maplewood Avenue, Spencerport, New York of Maryann K. Carroll.
c. The signed and notarized affidavit regarding 155 Maplewood Avenue, Spencerport, New York of Joan K. Quigley.
d. The letter regarding 155 Maplewood Avenue, Spencerport, New York from Richard McQuilkin dated October 30, 2018; and
e. That the back house is an extension of the home, as it has always been maintained and attested to in the Affidavits.

And having based these findings of fact on the credibility and veracity of comments made at the public hearing and the submissions provided in support and in opposition.

Motion: Diana Powell Keery
Second: Chairman Dole

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

Anthony DelleFave: Could you clarify what that decision means as far as what my clients are able use the back house for?

Diana Powell Keery: It is an extension of the home as it has always been maintained and attested to. Which if you look at the affidavits.

Anthony DelleFave: So, will that continue the grandfather status of two residential properties in that district?

Attorney Stowe: It was a whole affirmation of the determination of my letter saying that the letter is wholly affirmed, and no part varied from for the seconded residential structure. No change from what it was when the June 20th letter was issued.

Anthony DelleFave: Is there any clarification on what was discussed at the first meeting on whether it will be able to be used as a rental?

Attorney Stowe: The letter stated seconded residential structure without regard to what type of residence.

Anthony DelleFave: I am just trying to get clarification because it was referred to as an extension of the home.

Building Inspector Smith: My understanding is that it was never used as a rental structure.

Diana Powell Keery: According to the affidavits that is correct.

At this time Anthony DelleFave requested copies of the resolutions be mailed to his client as well as himself.

Joan Quigley: Can they rent, or can't they?

Attorney Stowe: I can't say yes or no.

Kevin Watson: Wasn't that the process to make that determination?

Attorney Stowe: The letter said was it a residential structure that was pre-existing non-conforming and that was what the determination was. Is it a residential structure that can remain?

Michael Flavin: Yes.

Diana Powell Keery: That was what we were asked.

Joan Quigley: Just so you know what I signed for. They came over and saying that they had been told that the little house hadn't been occupied for over a year. Well it had been on and off with visitors. So that is how I got in on signing the paper I did.

New Business

Nothing requiring Board action

Approval of Minutes

Motion made by Chairman Dole Seconded by Diana Powell Keery carried unanimously to approve the October 18, 2018 minutes.

Adjournment

Motion made by Diana Powell Keery seconded by Chairman Dole and carried unanimously to adjourn the regular meeting at 7:14 pm.