

A regular meeting of the Zoning Board of Appeals of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on April 4, 2017 at 5:00 p.m.

In attendance:

- Members Present: Susan Snell - Chair, / John Sansevere / Ron Streek / Marcie Schwartzman / Jeff Schneider – Alternate
- Members Absent: Frank Leo
- Others: Zoning Enforcement Officer, Jane Gentile / Clerk (PT), Mikal Sky-Shrewsberry / (28) Members of the Public
- **Ms. Snell Opened the Meeting at 5:03 PM**
  - **Note: 2 Items originally on the agenda were removed before the start of the meeting and postponed until the next ZBA meeting, currently scheduled for May. Tabled items were**
    - **157 Main Street (JoAnn Hubbell)**
    - **64 Beaver Street (Steven Kuzmiak)**
  - **Ms. Snell announced this to the attendees at the beginning of tonight's meeting and apologized for any inconvenience these last minute changes may have caused.**

### **PUBLIC HEARING (3 ITEMS)**

#### **1. 20 Glen Avenue (Janice Eichler)**

**FOR A CHANGE IN EXISTING TOURIST ACCOMMODATION SPECIAL USE PERMIT FROM 2 BEDROOMS TO 5 BEDROOMS**

- **MS. SNELL OPENED THE PUBLIC HEARING AT 5:05 PM**
- **DISCUSSION**
  - Applicant (Ms. Eichler) was present/participated
- **PROPERTY / CURRENT USE DESCRIPTION**
  - **TWO FAMILY HOUSE WITH ACCESSORY APARTMENT (CARRAIGE HOUSE) - UPSTAIRS TWO (2) BEDROOM UNIT, DOWNSTAIRS THREE (3) BEDROOM UNIT AND ONE (1) BEDROOM DETACHED IUNT)**
- **PUBLIC COMMENTS**
  - **RICK JAGELS (22 NELSON AVE)**
    - **ASKED ABOUT THE TOTAL OCCUPANCY FOR THE HOUSE (ZBA CHAIR STATED THERE WILL BE A MAX OF 9 SHORT TERM RENTERS + THE OWNER =TOTAL OF 10 FOR 6 BEDROOMS)**
  - **JOHN SANSEVERE (ZBA)**
    - **ASKED IF PARKING REQUIREMENTS WERE MET (ZBA CHAIR STATED THEY ARE)**
- Public Hearing left open to provide time for additional comments
  - No additional comments were made
- **PUBLIC HEARING CLOSED AT 5:57 PM**

#### **2. 130 Chestnut Street (William Dykstra)**

**for a special use permit to operate a four bedroom tourist accommodation**

- **MS. SNELL OPENED THE PUBLIC HEARING AT 5:09 PM**
- **PRESENT/PARTICIPATING: MR. DYKSTRA - APPLICANT**

- **PUBLIC COMMENTS**

- **RICHARD BLABEY (90 GROVE STREET)**
  - concerned that loss of population in the village is due to loss of homes & apartments offering full time occupancy
  - concerned about converting apartment buildings into tourist accommodations
- **CARLA MACMILLAN (12 MAIN STREET)**
  - feels that the conversion of Apartments into tourist accommodations is destroying the community
  - Feels that that converting any property in the village to a tourist accommodation is hurting the community
- **JAMES DEAN (15 DELAWARE STREET)**
  - **DISCUSSION ABOUT OWNER RESIDENCY ON PROPERTY**
    - Mr. Dean asked how many months the owner would be living on the property?
    - Mr. Dykstra (owner) stated it will be his permanent address although he does not presently reside there due to construction
    - ZBA Chair stated that the law
      - does not require the owner to be a year-round resident
      - does require that the owner needs to be present 100% of the time while rented
      - tasks the ZBA with creating a balance between income properties and permanent long-term residential properties
- **ROGER MACMILLAN (12 MAIN STREET)**
  - Ambiance of the village is being lost to dreams park rentals
  - neighborhood virtually disappears during the summer due to transient housing
  - “enough is enough”
- **PATTI ASHLEY (78 CHESTNUT STREET / OWNER OF ASHLEY CONNOR REALTY)**
  - real estate agency constantly gets requests for rentals
  - the village desperately needs apartments
  - people who primarily reside in the village to make money on dreams Park rental properties do not have the **SAME COMMITMENT TO THE COMMUNITY AS OTHER VILLAGE PROPERTY OWNERS**
- **RICK JAGELS (22 NELSON AVE)**
  - **REQUESTED CLARIFICATION ABOUT GRANTING OF PERMITS**
    - Does ZBA have the discretionary power to decide whether or not to issue a permit that approves the establishment of tourist accommodations if all requirements have been met? Or, is ZBA required to issue a permit if all requirements have been **MET**?
    - **IMPLORED ZBA NOT TO APPROVE SPECIAL PERMIT REQUESTS**
- **SUE SNELL (ZBA CHAIR)**
  - read the law: ZBA is required to create a balance between permanent & transient housing
- **BILL WALLER & CAROL BATEMAN WALLER (66 BEAVER STREET)**
  - Ms. Waller read letter given to ZBA

- Summary
- The tourist industry causes a great deal of inconveniences for year-round Cooperstown residents
- All variances weaken the law
- **SUE SNELL (ZBA CHAIR)**
  - Stated: the 2 properties that were open for public hearings at tonight's meeting were NOT requesting variances
- **JOHN SANSEVERE (ZBA)**
  - The issue is the laws / ZBA is required to follow the laws as currently written / ZBA does not create the laws / if residents want change they need to address the trustees because the trustees make the laws – they can't blame the ZBA for doing their job
- **VERONICA SEAVER (60 MAIN STREET)**
  - Against the 2 Permits being considered
  - Feels the character of the Village is largely gone but it is important to hold on to the little that is left
  - there are a lot of late night neighborhood disturbances created by tourists on vacation
  - She is "Fed Up"
  - Took issue with Mr. Sansevere's statements / This is the right meeting for residents to share their views because it is
    - A Public hearing
    - ZBA makes recommendations to the trustees regarding the law
- **JOHN SANSEVERE (ZBA)**
  - stated that it was difficult to deny an individual a permit when ZBA has previously approved similar permits for many other applicants
- **RICHARD BLABEY (90 GROVE STREET)**
  - suggested law 300-16 should be the determining factor in ZBA's decisions "uses will not be detrimental to the safety, health, general welfare or particular character of a neighborhood or the value of surrounding communities.
  - Following Law 300-16 required ZBA to make a subjective decision
  - lots of complaints by the public regarding a permit or variance implies that granting it will have a detrimental effect
  - He feels that it is ok for ZBA to approve tourist accommodations on streets that already have a busy noisy character because they will not be detrimentally effected or have their character changed
  - is especially concerned about having year-round apartments disappear
- **BILL LUSK (92 LAKE STREET)**
  - against the Abbate's dreams park rental request
  - shared his personal experience regarding having a dreams park rental as a neighbor and stated he would not have purchased the home he now has if he had known about the Dreams Park property
  - believes Dreams Park will have a negative effect on the resale value of his property (in which he has invested a great deal of time and money improving)

- **DISCUSSION: REVOKING A PERMIT ONCE IT IS ISSUED**
  - **KAREN STRECK (2 Fernleigh Drive)** initiated the discussion by asking if and how ZBA can revoke a permit
  - **SUE SNELL (ZBA CHAIR) STATED**
    - Permits are issued for a 1 year periods
    - Permits are reissued automatically each year once the initial permit is approved unless Zba has recieved complaints
    - non-grandfathered Properties: ANY complaints received by zba will trigger an investigation and possible denial of renewal (depending on the nature and scope of the complaint(s))
    - GRANDFATHERED PROPERTIES\*\*: reconsideration/denial of permit renewal requires a unique & more stringent set of criteria from other properties. ZBA must receive 5 unrelated complaints  
**\*\*note: this was an erroneous statement. for correct info see Section 300-17.A.4**
    - Changes to the use of a PROPERTY: REQUIRES NEW ZBA APPLICATION
  - **ZBA (MARCIE SCHWARTZMAN)**
    - ZBA is not empowered to review the overall impact “big picture” of transient vs long term housing- it can only look at individual properties on their own merits
    - the Village Zoning Enforcement Officer is looking at BNBs to make sure all those operating are legally approved (there is some degree of enforcement happening)
  - **JANE GENTILE (ZEO)**
    - ZBA can refuse renewal if it receives complaints showing the permitted use of a property is having negative impact on the community
  - **BILL WALLER (66 BEAVER STREET)**
    - asked whether ZBA has ever received a specific complaint about a tourist accommodation
    - stated he knows that the house next to Paul Kuhn’s is known to be problematic
  - **ZBA MEMBER**
    - the threshold of police complaints needed to trigger reconsideration of the specific property had not been reached
- **ROGER MACMILLAN (12 MAIN STREET)**
  - Cooperstown is not alone - Milford is dealing with similar concerns
  - graduate students face housing challenges – they are required to vacate their residences over the summer to make room for dreams park renters
- **ZBA (JOHN SANSEVERE)**
  - it all comes down to \$
  - for every property that has complaints against it you can also find people who say it is not a problem

- **ZONING ENFORCEMENT OFFICER (JANE GENTILE)**
    - ZBA is required to balance the needs of owners with the character of the neighborhood
  - **JAMES DEAN (15 DELAWARE STREET)**
    - believes it is important to define what a homeowner actually means
    - is a homeowner someone who actually resides in the community and is invested in it? someone who has purchased a property solely as an investment and has no personal investment in the character of the community?
  - **MARGARET SAVOIE (VILLAGE PROPERTY OWNER & REAL ESTATE AGENT - DOES NOT RESIDE IN VILLAGE)**
    - believes tourism as an industry is fine but the box that contains it needs to be controlled
    - currently the village is fitting into the tourism box- it needs to be reversed so that tourism fits into the village box
    - there is a desperate need to provide housing for year-round residents who contribute back to the entire village community
    - tourists support specific businesses rather than the entire community
    - concerned that the procedure for reconsidering permits is having a negative impact on the character of the village by creating neighborhoods of vigilantes
    - would like the ZBA to address concerns through more positive approaches
  - **COUNTY CODE ENFORCEMENT OFFICER, TONY GENTILE (5 LEATHERSTOCKING STREET)**
    - tourist accommodations are allowed in all village districts
    - permits have to be approved if zoning ordinances have been met
    - there is a set of specific criteria that need to be met for a Special permit to be issued in the village (the public remains ignorant of what they actually are since no one from the public has asked about them /no one from ZBA has presented them)
    - ZBA cannot change the law only review it- the trustees need to be approached if changes to the law are desired
    - supports the 2 projects under discussion because they meet the parameters specified by the law
- Public Hearing left open to provide time for additional comments)
    - No additional comments were made
  - **PUBLIC HEARING CLOSED AT 5:57 PM**
- 3. 3 Westridge Road (Richard / Rosemary Abbate)**  
**FOR A SPECIAL USE PERMIT TO OPERATE A THREE BEDROOM HOUSE TOURIST ACCOMMODATION**
- **MS. SNELL OPENED THE PUBLIC HEARING AT 6:12 PM**
  - **DISCUSSION**
    - **APPLICANT (MS. ABBATE) WAS PRESENT/PARTICIPATED**
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - 3 bedroom tourist accommodation
    - Variance requirement discussed at February Meeting is no longer required

- Abbate's have hired a contractor and plan to physically widen the Area next to the garage and deepen the lot against the addition to accommodate 2 parking spaces
- The 2 Parking spaces obtained by reconfiguring the parking area + 2 in the garage provide the total number of required parking spaces for 4 bedrooms
- Requirements for owner Occupied / Owner Operated are met
- **PUBLIC COMMENTS**
  - **ZBA CHAIR (SUSAN) SNELL READ 3 LETTERS SUBMITTED TO THE ZBA (LETTERS ARE ON FILE)**
    - Susan White (87 Lake Street)
      - Has no concerns or objections
    - Keith Kraham (88 Lake Street)
      - Has no concerns or objections
    - Richard Sternberg (2 Westridge Road / Village trustee)
      - Has no concerns or objections
  - **PATTI ASHLEY (78 CHESTNUT STREET (VILLAGE RESIDENT) & OWNER OF ASHLEY CONNOR REALTY)**
    - Objects to the Zoning Board Officer's Interpretation of parking requirements and how that interpretation is being applied to this application
    - Feels that if the parking requirements are interpreted in this way then "half the village has been misled" and wrongly limited by being held to a different requirement
      - ZEO (Jane Gentile) explained that one parking space is required per rental bedroom so a 4 bedroom home would require 4 spaces (3 for renters, 1 for owner)
  - **DOROTHY PHILLIPS (9 WESTRIDGE ROAD)**
    - Road is not wide enough to have any on-street parking
    - Concerned emergency vehicles will not be able to get access to homes if needed (road is 17' wide / fire trucks require 13')
  - **CHERYL WRIGHT (LAKELAND SHORES)**
    - Read letter on file
    - Feels the neighborhood will be permanently and negatively impacted by parking and parties
    - Objects to the Zoning Enforcement Officer's Interpretation of parking requirements and how that interpretation is being applied to this application
    - Feels the interpretation being applied doesn't make sense: owners are required to have 2 parking spaces during in a single family home that is not being rented but are only required to have 1 space during the time period that they rent out their home
  - **CAROL TAYLOR (1 WESTRIDGE RD)**
    - Concerned that the presence of Dreams Park renters will (1) damage the character of the neighborhood because that particular neighborhood is very small and (2) reduce her enjoyment of her home because she bought it specifically to be in a neighborhood with its existing character
    - Concerned that despite the Abbate's best intentions the situation will turn out differently than envisioned
    - Concerned it will damage the resale value of her home

- Initiated discussion about how complaints can result in the cancelation of permits
  - Zoning Enforcement Officer (Jane Gentile) stated
    - All complaints are considered
    - ZBA weighs the type and number of complaints to decide how much they should impact decision to reissue a permit
    - Fines are never issued to address complaints, only rescinding of permits
  - ZBA (Marcie Schwartzman)
    - Stated some complaints are the purview of the ZBA while others are within the purview of either the Zoning Enforcement officer or the police
  - ZBA (Susan Snell)
    - It is important to inform the owner of complaints
    - Explained that the maximum number of 10 applies to the number of actual renters and family members – there is no limit to the number visiting guests the renters can have
    - ZBA can immediately rescind a permit if there is a violation of specific requirements
- **RICK JAGELS (22 NELSON AVE)**
  - Believes proposed intensity of use is too great for this property and would like ZBA to consider the number of rooms that can be rented out
  - Objects to the Zoning Enforcement Officer's Interpretation of parking requirements and how that interpretation is being applied to this application
  - Believes the character of the owner should not be a determining factor because the permit remains with the property even if the owner changes
- **VERONICA SEAVER (160 MAIN STREET)**
  - Moved here to retire – chose her home because it nice, quiet, calm
  - Believes a significant number of people choose to move to Cooperstown for the same reasons
  - Concerned that the quiet calm atmosphere will be significantly disrupted if the permit is approved
  - Concerned that the one bedroom unit which the Abbate's plan to reside in is large enough and contains a kitchen sink – which may eventually lead to the structure being treated as a 2 family dwelling
  - The village is starving for year round rentals
- **HENRY PHILLIPS (9 WESTRIDGE ROAD)**
  - Directed his comment to James Dean and the village trustees
  - Recognizes that change is inevitable and needs to be done according to the law
  - Would like Mr. Dean to talk to the Board about changing some of the laws
  - Concerned that granting too many variances /special permits water down the law until it becomes useless

- **BRENDA BERSTLER (6 WESTRIDGE ROAD - ADDRESS WAS PREVIOUSLY LISTED AS 5 WESTRIDGE IN 1955)**
  - Runs a B&B at end of Westridge Road –on top of the hill/ rents to Opera, NOT Dreams Park
  - Concerned that if the permit is granted the neighborhood will be disrupted
    - Road is very narrow / on-street parking which is likely to happen could prevent access to homes by owners and emergency vehicles
    - Believes the house is too small for the proposed number of tenants
- **DOUGLAS/SUSAN WALKER (90 LAKE STREET)**
  - Not against the permit as long as it is regulated and not over-crowded
  - Voiced various concerns about the ability to actually control the behavior of Dreams Park guests who feel entitled because they paid a great deal of money
- **PUBLIC HEARING CLOSED AT 7:02 PM**

### **REGULAR AGENDA (4 ITEMS)**

**Note: there were originally 6 items on the agenda. The same two properties slated for public hearings were removed. See the Note at the beginning of these minutes.**

1. **20 Glen Avenue (Janice Eichler) - update of Tourist Accommodation Special Permit from two bedrooms to five bedrooms (one two (2) bedroom unit and one three (3) bedroom unit). Owner lives in carriage house on property.**
  - **PRESENT/PARTICIPATING: Janice Eichler – Applicant**
  - **Description**
    - 5 bedroom rental + addition of owner’s quarters on the premises
    - Total 10 occupancy on parcel
    - Commercial Zone
    - Corner of Glen Ave and Grove Street
  - **DISCUSSION**
    - A public hearing entertaining this agenda was held earlier during this meeting
    - Ms. Snell stated that all requirements (including owner occupancy & parking) had been met for the increased occupancy resulting from converting the unit from a long term to short term rental
    - Ms. Snell/Ms. Gentile stated that ZBA had not received any complaints
  - **MOTION**
    - To approve 20 Glen Avenue application for a change in the existing tourist accommodation special use permit from two bedrooms to five bedrooms (one (2) bedroom unit + one (3) bedroom unit) as proposed
    - Motion made by Mr. Streek / Seconded by Mr. Sansevere
    - Vote:
      - AYES (5): Snell / Sansevere / Streek / Schwartzman / Schneider
      - Opposed (0)
    - **MOTION APPROVED**
2. **130 Chestnut Street (William Dykstra) - special use permit to operate a four bedroom tourist accommodation in four (4) unit apartment building (three (3) separate apartments - 2 one bedroom and 1 two bedroom). Owner will live in remaining 1-bedroom apartment.**



- **PRESENT/PARTICIPATING:** William Dykstra - applicant
- **PROPERTY / CURRENT USE DESCRIPTION**
  - 4 unit apartment building
  - Owner occupied/owner operated
  - 4 or 5 parking spaces
  - Surrounded by tourist accommodations & rental properties
  - Located on one of the busiest, noisiest streets in the village
- **DISCUSSION**
  - A public hearing entertaining this agenda was held earlier during this meeting
  - Jeff Schneider
    - This is an opportunity to consider if and how conversions from long term to short term rentals change the character of the neighborhood
  - John Sansevere
    - Long term rentals do not require owner occupancy and can become section 8 housing (they do not necessarily preserve the character of the neighborhood)
  - Susan Snell
    - Historically tourist accommodations used to be individual rooms in a house but over time they have increasingly become full apartments and houses
  - Marcie Schwartzman
    - To change the law the public needs to address the village trustees
    - Not all properties lend themselves to short term accommodations -there are rules in place meant to protect residents
    - Sees both sides of the short term rental issue
      - Believes short term rentals hurt property values / would not show a house in the summer
      - Hard to ask people to give up significant income
      - Living among transients can be creepy especially if you have kids
      - Transient housing is legal if requirements are met
    - 3 Westridge neighbors who objects to a rental property and wants its permit reconsidered either need to “rat out neighbors” and make noise to the zoning board officer, Jane Gentile or come up with an alternate plan for the trustees to consider
    - Does not see how ZBA can deny the permit for 130 Chestnut because it meets the requirements of owner occupancy and adequate parking
  - John Sansevere
    - List of approved short term rental properties is public information and posted online
    - Can be accessed through <http://cooperstownny.org/zoning/> link listed under Related Files: 2017-list-of-village-approved-tourist-accommodations
- **MOTION**
  - **To approve 130 Chestnut** application tourist accommodation special use permit to allow rental of (1) 2-bedroom unit and (2) 1-bedroom units
  - **Conditions**
    - The owner agrees that as owner he will live onsite during all rentals
    - Will never exceed 10 people sleeping on the parcel
  - **Motion made:** Ms. Schwartzman / **Seconded:** Mr. Sansevere

- **Vote:**
  - **AYES (5):** Snell / Sansevere / Streek / Schwartzman / Schneider
  - **Opposed (0)**
- **MOTION APPROVED**
- 3. **3 Westridge Road (Richard Abbate) –**

special use permit to operate a three bedroom house tourist accommodation (single family house with separate area for owner)

  - **NOTE:** the original application included a variance for required parking in front yard setback per Section 300-35(B)(3)(c). This was removed from the application because the Abbates intend to physically reshape their parking area to meet any necessary requirements.
  - **PRESENT/ PARTICIPATING:** Ms. Abbate
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - Single family house
    - Owner occupied /owner operated
    - Applying for 3 bedroom rental with separate large bedroom to accommodate owner's family
    - Intends to structurally modify the parking area to meet legal requirements
  - **DISCUSSION**
    - A public hearing entertaining this agenda was held earlier during this meeting
    - Rosemary Abbate (owner)
      - Wants to reassure her neighbors that they will do whatever needs to be done to enforce the rules and protect the neighborhood
      - Since this is their primary home it further assures they have a stake in keeping the rental situation under control
      - Invites neighbors to reach out if there is a problem
    - Susan Snell
      - Initiated discussion regarding how a family of 4 live in just 1 bedroom
        - Loft-like design with a second room within the space
      - Discussed whether cars can be stacked in a family situation
      - Stated she feels questions about the parking requirement can be set aside temporarily in order to address broader issue of intensity of use (because parking can be addressed in one way or another)
      - Believes that 3 rental units is too intensive for the house and the neighborhood
      - Stated that she gives greater weight to the current plans of current owners rather than what may happen if ownership changes hands – permits can be revoked or altered
    - John Sansevere
      - Stated he can probably approve a 2 bedroom rental (as opposed to a 3 bedroom rental)
      - Feels it is not ok to vote until the driveway situation is addressed
    - Marcie Schwartzman
      - Objects to the Zoning Board Officer's Interpretation of parking requirements and how that interpretation is being applied to this application
      - Discussion regarding how the Abbate's will address the parking area to meet legal requirements
      - Concerned about intensity of use

- 3 units is too much
    - ZBA needs to consider potential impact of intensity on the character of the neighborhood
  - Feels better when dealing with applicants she knows to be responsible but since the permit stays with the house and the owners can change the reliability of the applicant is not that relevant
  - ZBA can't require the owners to rent to only one family or not to have parties / Next owner could legally choose to rent to 3 families and allow parties
- Ron Streek
  - Stated he won't vote yes no matter what
  - Feels any rental in that area could have detrimental effects
    - Cars parked on the side of the road can create a hazard for residents
    - Many people attending tonight's meeting are neighbors who object to the permit – their view need not be considered
    - Disagrees with the Zoning Board Officer's Interpretation of Parking requirements
- Jeff Schneider
  - Concerned that the family's 1 bedroom living space is actually a 2 room space
  - Shares the concerns expressed by Ms. Schwartzman / Mr. Sansevere / Residents
  - Believes there is a safety issue in play
- **APPLICATION AMENDMENT**
  - **NUMBER OF RENTAL BEDROOMS IS REDUCED FROM 3 DOWN TO 2**
    - ZBA States that a reduction in use will make the permit easier to approve
    - Rosemary Abbate states that she agrees to the reduction of rentals to address the concerns of the ZBA and Her Neighbors
  - **NOTE:** since the number of rental units has been reduced the existing parking configuration is adequate / the Abbates no longer need to physically reconfigure their parking area or obtain a variance / The two spaces for the owner can be stacked next to the garage
  -
- **MOTION**
  - To grant 3 Westridge Road amended application for a special use permit for a two bedroom house tourist accommodation single family with separate accommodations for the owner
  - **Motion made:** Mr. Sansevere / **Seconded:** Mr. Schneider
  - **Vote:**
    - **AYES (3):** Snell / Sansevere / Schneider
    - **Opposed (2):** Streek / Schwartzman
  - **MOTION APPROVED**

**4. REVIEW OF MINUTES FOR FEBRUARY 7, 2017 ZONING BOARD OF APPEALS MEETING**

- No discussion or objections
- **MOTION**
  - **To approve the minutes as submitted**
  - Motion made by Ms. Snell / Seconded by Ms. Schwartzman
  - VOTE:
    - AYES (4): (Snell, Streek, Sansevere, Schwartzman)
    - NAYS (0)
    - ABSTAINED (1): (Schneider- because he was not present at the February meeting)
  - **MOTION APPROVED**

**OTHER BUSINESS**

- No other business was discussed

**MEETING CLOSED 7:30 PM**