

Town of Oneonta
Zoning Board of Appeals
Meeting Minutes
March 28, 2022



Present: D. Allison, A. Black, D. Prouty, M. Stolzer, L. Sause (Clerk)

Absent: Chairman Cannistra, Rob Panasci (Attorney),

Others: John B Claflin II, Ellen Blaisdell, Peter Exton, Brendy Seery, John Smallin, Betty Smallin, Marcia Bowne, Brian Belnap, Will Clemons, Soraya Mostert, Cameron Bowne

A. Roll Call

- Acting Chair Prouty called the meeting to order at 7:00pm and called for the roll.
- Next meeting is scheduled for April 25, 2022

B. Minutes – February 28, 2022

MOTION: A motion was made by D. Allison and seconded by M. Stolzer to approve the minutes as presented.
DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

C. New Applications: None

D. Public Hearings:

- **Saxton Sign Co. Inc. Special Sign Permit**
Tax Parcel No: 300.11-1-21.00
772 St. Hwy 28, Oneonta, NY
Zoning: HDD (Highway Development District)

The applicant is requesting a special sign permit to add two (2) additional façade signs and two (2) additional freestanding signs to the Starbuck's.
Allowable # of signs: 2 signs allowed. Allowable area of signs: 100 SF per sign allowed.

Existing Signage: None- regular sign permits will be issued for the freestanding and façade sign allowed. The proposed signs need a special sign permit approval because:

1. The two (2) requested façade signs exceeds the allowable number of signs allowed.
2. The two (2) requested freestanding menu board signs exceed the number of freestanding signs allowed.

The public hearing began at 7:15pm and Acting Chair Prouty read aloud the notice in "The Daily Star." Darren Katz from Saxton Signs appeared and submitted a letter from the owner stating that Mr. Katz may represent the application. He discussed that he would like to put up two menu board signs. The two signs are larger than allowed. The board questioned about the lighting on the signs and Mr. Katz stated that the drive through sign will be all metal and backlit opaque green.

Mr. Katz believes that he has a unique hardship due to the parcel shape and the location of the business making it more difficult to be seen. He also believes that the signs would comply with the district as there are other businesses with extra signs including the Wendy's and McDonalds. Mr. Katz also feels that they are in general harmony with the neighborhood because they are in a business district and there are many similar businesses in the area.

The hearing closed at 7:25pm and no one else addressed the matter. The board determined that the signs were necessary, that there was a unique hardship due to the location of the business and that it was in general harmony with the neighborhood.

MOTION: A motion was made by D. Allison and seconded by M. Stolzer to approve the Special Sign Permit.
DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

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- **John B. Claflin II, Use Variance**
Tax Parcel No: 287.00-1-17.01
645 State Highway 205, Oneonta
Zoning: RA-40 (Residential – Agricultural)

The applicant desires a use variance to allow the construction of a new structure to be used as a winery. The following town code section will be violated:
103-8. Permitted and prohibited uses. In all districts, uses not specifically listed as permitted shall be deemed prohibited, and all permitted uses shall be subject to all applicable general and special regulations as may be specified in this chapter as a condition for creation of said use, except as provided under Article XIV hereinafter.
Questions 2A & 2B remain unanswered on the application.

The public hearing began at 7:30pm and Acting Chair Prouty read aloud the notice from “The Daily Star” as well as the letter presented from the neighbors in support of the application. John Claflin represented the application. He stated that he has a financial hardship due the fact that 9 acres of the property is unusable where the previous dump was located. Only part of the land is buildable thereby limiting his income. Mr. Claflin presented a letter from a real estate broker stating that they cannot appraise the property. He does not believe that his hardship was self-created as the property was used previously for heavy equipment and the dump had been there, but did not know the extent of the unstable portion of the land. He says that the hardship is unique as he would like to bring back the property to a more natural state and return it to agricultural use for his vineyard. He also says that he cannot obtain a reasonable return on the property as he has put a lot of money into it so far, and he will have more expenses cleaning it up. He does not believe that this use will change the character of the neighborhood as others in the area also have businesses and parking.

The board questioned that he did not bring any financial evidence of his hardship and would like to continue the hearing next month in order to give Mr. Claflin a chance to bring financial evidence of his hardship. Mr. Claflin stated that he would like to waive his right for the board to act upon the application in 62 days.

MOTION: A motion was made by D. Allison and seconded by M. Stolzer to accept the applicant's waiver of the 62- day rule for the board to act upon the application.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

MOTION: A motion was made by D. Allison and seconded by M. Stolzer to table the application until the next meeting on April 25, 2022 in order for the applicant to produce competent financial evidence.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

- **Ford and Hill Holdings LLC (Joe Vallette), Special Extension**
Tax Parcel No: 287.19-1-25.00
132 Winney Hill Road
Zoning: B-1 (Neighborhood Business)
The applicant desires a use variance approval to sell the parcel for a single-family residence.

Ford & Hill Holding LLC (Joe Vallette) seeks a special extension to allow occupancy of an existing single family, four-bedroom dwelling by three or more unrelated individuals. The existing home is a preexisting dwelling accessory to the church for use by the Pastor. The subject parcel was purchased by Ford & Hill Holdings LLC. (Joe Vallette) and was rented out to college students without approvals. Subsequently, the current owner chose to apply for a short- term rental special use approval from the

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Planning Board. During the Planning Board approval process a fire safety inspection was completed by the code office where the occupancy by unrelated individuals was identified.

The Planning Board approval process is on hold because of the unrelated individual violation. The applicant has chosen to seek the special extension to continue the use of the residence by more than two unrelated individuals. Special extension approval by the ZBA is required per the below code section:

103-14(H) Family. A "family" as defined in 103-3, definition of "family," Subsection (3), may be permitted by the Board of Appeals provided that said Board finds the occupants constitute a functional family unit, which means a group of three or more individuals living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods. In determining whether or not a group of unrelated individuals is functional family unit under the definition set forth above, the Zoning Board of Appeals may consider, among other things, the following factors:

- (1) Whether occupants share the entire dwelling unit as contrasted with a situation where the various occupants act as separate roomers.
- (2) Whether the household has stability with respect to the purpose of the Zoning Ordinance. Evidence of such stability may include among things, the following:
 - (a) The presence of minor, dependent children regularly residing in the household.
 - (b) Enrollment of dependent children in local schools.
 - (c) Proof of the sharing of expenses for rent or ownership costs utilities and other household expense.
 - (d) Whether the household has been living together as a unit for a year or more; either in the current dwelling unit or other location.
- (3) Whether the household appears to preserve and maintain the harmonious character of the residential district in which the household is located.
- (4) Whether the rooms providing living, cooking, sanitary and sleeping facilities meet the minimum dwelling space requirements of the New York State Uniform Building Code.
- (5) Whether the household is a temporary living arrangement or a framework for transient living, such as a boardinghouse, a temporary residential home or a fraternity or sorority house.
- (6) Whether adequate provision has been provided for off-street parking and related problems which are consistent with the regulations of the zoning district in which the household resides.
- (7) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

In considering the applicants request it is the opinion of the Code Officer that the applicants do not meet the criteria for special extension granting. There are no children proposed at the location; the use does not preserve and maintain the character of the neighborhood, the occupancy is a temporary living arrangement (college students) and further will not, as the applicant has expressed a desire to rent short term during the "baseball park season."

The public hearing began at 8:05pm and Acting Chair Prouty read aloud the notice from "The Daily Star". Daniel Hunter appeared for the application. He would like to apply to get a special extension to allow his four tenants to continue living there as they have signed leases until May. He presented a document with his statements regarding the application. He believes that the use shall be in harmony and not detrimental to adjacent properties and he described that the tenants are acting as one family unit, sharing all their expenses. He also said that the landlord keeps the property in better condition than it was, spending money on painting and will have future plans for fixing the fence and landscaping.

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He says that the use does not change the location or size of the house itself and there is less traffic than when the church was open. His hardship is in how much in taxes is now paid on the church and home and if he rented to just one family it would not bring in enough income to pay it.

Some of the neighbors came forward to speak:

Marcia Bowne, 136 Winney Hill Rd., stated that there is sometimes noise and garbage on the lawn and problems in the back yard – especially last year with the previous tenants. She noted that the owner was in Florida and the garbage spilled into the creek. She also said that the sound travels right into her windows from their back porch and requested that they perhaps put in a sound barrier between the properties.

Cameron Bowne, He showed photos of the creek filled with garbage and said it can cause flooding.

Soraya Mostert, 142 Winney Hill Rd., She has lived there since 2005 and purchased it because it was away from the college. She would appreciate it being more neighborly and not have constant turnover every semester. She is reluctant to have their neighborhood be a college area or a short-term rental with non-residential community residents occupying.

Mr. Hunter responded to the neighbor's comments and gave them his phone number to call to try to resolve their issues.

The public hearing closed at 8:48pm.

M. Stolzer mentioned that the regulations state that only two unrelated persons may reside in a rental and at four is where most problems begin. He said that students take less responsibility when there are four or more. D. Prouty said that they do not want to kick out the students that are there now and that Mr. Hunter has made progress in trying to resolve issues. The board discussed the timing of when to allow the special extension to be granted to give adequate time for the tenants to move out and also that the issue of the short-term rental should be a separate application.

MOTION: A motion was made by M. Stolzer and seconded by D. Allison to grant the Special Extension until May 23rd, 2022.
DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

E. Decision:

- **Interpretation of Municipal Officials Decision**

Tax Parcel No: 275.00-1-54.02

617 East St., Oneonta, NY

Zoning: R-80

MOTION: A motion was made by D. Allison and seconded by Acting Chair, Prouty to approve the decision.

VOTING: 3 in favor. ABSTAIN: A. Black **Motion Carries**

There being no further business before the Board, the meeting was adjourned at 9:15pm.

Laura Sause,

Clerk of the Zoning Board of Appeals