

**VILLAGE OF ARDSLEY
ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, DECEMBER 17, 2014**

PRESENT: Patricia Hoffman, Chairman
Michael Wiskind
Jacob Amir
Ellen Slipp
ABSENT: Mort David

Call to Order

Ms. Hoffman called to order the regular meeting at 8:00 p.m.

Ms. Hoffman noted one Board member is absent this evening. She stated there is a Quorum.

Announcements

Ms. Hoffman announced the next Zoning Board of Appeals meeting is Wednesday, January 28, 2015 @ 8:00 P.M.

Approval of Minutes – July 23, 2014

Minutes were approved.

Approval of Minutes – September 17, 2014

Minutes being reviewed and will be approved in January meeting.

Approval of Minutes – October 22, 2014

Minutes being reviewed and will be approved in January meeting.

Approval of Minutes – November 19, 2014

Minutes being reviewed and will be approved in January meeting.

Continuation of Public Hearing on Use Variance Application

**Ni Nu Inc., 2 Bridge Street, Ardsley, New York.
Section 6.70, Block 42, Lot 5, in a B-2 Special Business District.**

For proposed conversion of second floor commercial space into two one-bedroom apartments. (Code § 200-73B).

Attendees: Mr. & Mrs. Nunzio Bucci, Applicants; Lino J. Sciarretta, Esq., Applicant's Attorney; Mr. Federico, Applicant's Architect

Ms. Hoffman stated that she wanted to put this Applicant first because the information that was received from Mr. Sciarretta was received yesterday.

Mr. Sciarretta stated that he received the information from the accountants on that same day and the he understood about the time requirements in order to get the Board advance notice.

Ms. Hoffman stated that not only did the ZBA receive it yesterday but they received redacted information on the pages.

Ms. Sciarretta stated that he understood that the Board wanted financials pertaining to 2 Bridge Street and not 646 Saw Mill River Road.

Ms. Hoffman stated that Mr. Sciarretta could have redacted it from his computer and just sent 2 Bridge Street. She received 6 pages of nothing. She stated that this is blank and it does not tell her of any relationship to 2 Bridge Street to NiNu Inc. This was very late and the ZBA we was promised this information since July and we received 6 pages yesterday at 2:00 in the afternoon.

Mr. Sciarretta stated that with respect to the profit and loss statement, that was what came to him yesterday. He agreed with the Board.

Ms. Hoffman stated that the ZBA asked for financial information and documentation from the realtor and other information as to what the efforts have been in trying to rent this commercially.

Mr. Sciarretta stated that he had submitted the information with his initial application. Mr. & Mrs. Bucci were present in case they had to testify because they are the ones that called the broker and they are the ones that provided a listing and that is all that is available at the present time.

Ms. Hoffman stated that the ZBA spent a lot of time in August providing a list of all the things that the ZBA wanted, i.e. financial documents and the things that were in support of an application on a use variance. The burden is on the Applicant to show that there is a financial hardship and what actions have been taken to offset that financial hardship. Ms. Hoffman stated that they looked at this fax yesterday and they are running a loss of about \$6,000.00 per year. It does not tell me all the things that we needed to know and that the ZBA gave you on the list of five (5) months ago.

Ms. Hoffman stated that it is her opinion that the Board has not had ample time to review the information and the information that the ZBA has before them is not sufficient, however, there are 4 out of 5 members. I direct the meeting and will ask the Board members if they would like to adjourn this to give them ample time to review the information and to give Mr. Sciarretta time to get the information regarding the actions that have been taken all together and get it to us ten (10) days before the next meeting. I was very clear about the fact that the ZBA needs the information ten (10) days before the meeting.

Mr. Sciarretta apologized for the confusion and he thought he had presented the information in his Application that was required. He promised that he will submit the information ten (10) days prior to the next meeting.

Mr. Amir stated that what Mr. Sciarretta provided is an independent accounting report of a balance sheet that is dated March 14, 2014 for the year ending December 2013. In addition to the redaction, there is no context to the operating expenses so there is no way to really understand any of this. The depreciation expense and the repairs are relatively minor amounts. There is no context to the numbers.

Ms. Hoffman asked the Board in favor to affirm to hear the presentation or put this off to January 2015.

Mr. Wiskind wanted to hear what the owners had to say before adjourning the matter.

Mr. Sciarretta stated that Mr. Federico will speak this evening.

Ms. Hoffman stated that the documentation that was provided is not sufficient and not timely and considering the fact that the Applicant has had five (5) months to put this information together, it is not sufficient.

Mr. Sciarretta stated that he will have the information in January 2015.

Ms. Hoffman would like all of the testimony to be documented in writing so if the client is going to testify to his waiver from the Village, then he has some sort of paperwork from the Village. If he has a prior variance, then he has minutes or he can get minutes or he has a copy of the resolution that they gave him. As far as the expenses, these expenses don't tell us anything. I have five (5) pages of black marks.

Mr. Wiskind stated that he is finding the numbers confusing, i.e. the tax figure cited in your letter is about \$1000.00 different than what is in the faxed documents. The depreciation makes no sense. Taxes and other expenses were discussed.

Mr. Amir asked if Mr. Sciarretta had the unredacted copy. Mr. Amir stated that the ZBA needs to have a better handle on these numbers.

Ms. Hoffman asked if any had any further questions.

Architect for Applicant, Mr. Federico asked about the certification for parking. The information that he had was obtained from Larry Tomasso's records and he inquired as to what else the Board needs further.

Ms. Hoffman stated that the ZBA does not have anything and whatever was given to Mr. Federico, he still has. It did not get to us.

Mr. Federico stated that the demand for spaces was 32 and we had provided 25 and the Village Board granted a 30% reduction so that the 25 spaces were sufficient and that is what the site plan showed.

Mr. Bucci stated that there were no telephone calls for commercial space and there were numerous calls for residential space.

Ms. Hoffman asked if there is a log of the phone calls.

Mr. Sciarretta stated that he will provide a list.

Ms. Hoffman stated that the requirements to obtain a use variance are much more stringent than those of an area variance and we are mandated to get the financial information that is required in order for us to make that determination.

Ms. Hoffman stated that the next Zoning Board of Appeals meeting is January 28, 2015 and by January 18, 2015, the documents requested should be in the Village Hall.

Motion to adjourn.

VOTE 4-0

Close Public Hearing at 8:30 P.M.

Public Hearing – Application for Area Variance (Code § 200-18B)

Troy and Allison Calkins, 22 Revere Road, Ardsley, New York. Section 6.10, Block 1, Lot 17, in R-2 One-Family Residential District. For proposed legalization of rear deck with 15ft. west side yard setback, where 20 ft minimum is required.

Attendees: Adamo Maiorano, Contractor for Applicant.

Ms. Hoffman read the Legal Notice into the record.

Mr. Maiorano handed in proof that the Legal Notices and Notice of Meeting were sent return receipt requested and regular mail. Return Receipts were submitted.

Mr. Adamo Maiorano appeared on behalf of Applicant. Mr. Maiorano presented a drawing of the property with the rear deck to the Board. There was discussion about the rear deck.

Ms. Slipp asked about the square footage where applicant was seeking relief.

Ms. Hoffman stated that her only concern is when we get an application for a pre-existing item that we are supposed to look at this as though this deck does not exist and how would this particular applicant build this deck? It was stated that the Applicant purchased this deck without it being legal. Ms. Hoffman stated that the title report must have had it as an objection in the Schedule B.

It was stated that the Applicant's learned of the rear deck being illegal after the closing.

The Board granted the revised variance.

RESOLUTION

WHEREAS, Troy and Allison Calkins, 22 Revere Road, Ardsley, New York, have applied to this Board for a variance from the requirements of Section 200-18B of the Zoning Code of the Village of Ardsley for permission to legalize an existing wooden deck as fully described at the moment, and

WHEREAS, this application is made under the authority of Section 200-97 Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting premises known as 22 Revere Road, Ardsley, New York and designated as Section 6.10, Block 1, Lot 17 on the tax maps of the Village of Ardsley, and

WHEREAS, a public hearing on this application was held by the Ardsley Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York on December 17, 2014 after due notice by publication, and

WHEREAS, at the hearing Adamo Maiorano appeared in support of the application and no one appeared in opposition, or all those who desired to be heard were heard and their testimony recorded, and

WHEREAS, this Board after carefully considering all testimony and the application finds the following:

Granting of this requested variance on a rear yard setback will have a minimal impact on the neighboring properties;

That the applicants did not construct the deck but are trying to legalize the existing condition that they assumed when they purchased the property;

That the requirements are de minimis as noted and that the side yard variance is

consistent with the existing variance for the house.

The board discussed the five tests for granting an area variance, as codified by statute:

In making its determination, the zoning board of appeals did take into account the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board considered.

1. No 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 variance;
2. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
3. The requested area variance is de minimis;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. The alleged difficulty was not self-created.

NOW THEREFORE, be it resolved that the Application of Troy R. and Allison M. Calkins is granted.

Motion made by Pat Hoffman, Seconded by Michael Wiskind four votes in favor, motion carried, application granted.

Adjournment

There being no other business the meeting was adjourned.

On motion of Ms. Hoffman, seconded by Mr. Wiskind, the meeting was adjourned at 8:55 p.m. Motion passed unanimously.

Respectfully submitted,

Donna Fusco
Recording Secretary