

August 1, 2011

Zoning Board of Appeals

Proceedings by Authority

State of New York,
City of Jamestown, ss:
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Monday, August 1, 2011 at 3:30 p.m.

Members Present: Ellen Ditonto, Richard Hanson Patricia Calanni, Dave Daversa, John Sixbey

Members Absent: Sally Martinez, Robert Karbacka

Others Present: City Clerk/Director of Financial Services James N. Olson, Building Code Enforcement Officer Larry Scalise, and City Councilman Paul Whitford

Chairwoman Ditonto called the meeting to order.

MICHAEL DUNN, 516 JEFFERSON STREET

The Secretary read the petition of Michael Dunn, 516 Jefferson Street, Jamestown, New York for a use variance to erect a 24' x 40' pole barn garage on parcel 387.31-2-47 on West 6th Street owned by Habitat for Humanity in an R-C Zone; (Section 300-0307 R-C Multiple Family Residential And Professional Office District, the lot for the proposed garage is vacant. A garage is an accessory use and without a primary use, the garage is not allowed).

Michael Dunn, 516 Jefferson Street: Where I live now on Jefferson Street – I bought the house in 2000 – and over the years we remodeled the house and everything – got it all fixed up – over the years we've started acquiring toys, extra vehicles and stuff, snowmobile, boat, a couple of extra trailers and stuff like that. Right now, we just have them spread all over the place. We're just trying to get them all in one place and with our vehicles sitting where they sit, we've had our cars keyed, windows broke, dents put in our vehicles. It's just crazy living on the corner of Jefferson and Sixth. We had first thought about moving outside of town, try to find something different, but we've done so much work to the house, we really don't want to leave, we enjoy the neighborhood, enjoy the people that live there. For years we've seen this vacant lot sitting almost across from us and it's high weeds and everything – it's been an eyesore to the neighborhood for a long time. We thought okay, maybe we'll find out who owns it, we'll buy it from them and put up some kind of a storage building that we can store our stuff in and that would pretty much solve our problem; but we actually had no idea that we'd have to go through all this after I purchased it. I came to know a lot since I purchased it. I've cleaned a lot up and we've taken care to do a lot of repairs on the lot already – cleaned up, take out some unsightly brush and stuff like that, garbage – oh my gosh there was a lot of garbage, broken glass – everything on that lot. So we got it all cleaned up – it looks good and we just basically want something to store our stuff.

Ms. Ditonto: Can you tell us – you gave us a line drawing of the garage. It will be a pole barn type structure?

Mr. Dunn: Right. I'll be buying it from Carter Lumber. It comes in a kit out of Warren, PA.

Ms. Ditonto: Have you talked with the Building Inspector about the specific plans in terms of drainage on the property and the cut you'll make for the driveway entrance?

Mr. Dunn: Right. Yes. I know it has to be 30 feet from the main road down for the driveway entrance and what we're going to do, we're going to have the trees that are there now taken out and the lot leveled in order to make it look better. Actually, the dirt there is so hard, I don't think you could grow

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anything off of it so actually we're going to have some taken out, fresh dirt put in, have it leveled so when we do get the...if you do approve it and afterwards we'll get some decent looking grass in there too.

Ms. Ditonto: And what is the date in terms of when you plan to start if you get approved?

Mr. Dunn: As soon as possible. Carter Lumber says they can have it to me within a couple of weeks, delivered, and I have a man out in Warren who's going to assemble it and I've already talked to a man about leveling the lot and I already have someone who is going to take the trees out – so hopefully before the snow starts flying.

Ms. Ditonto: You understand that the lot is not supposed to have a garage unless there's a structure where someone would be living either in an apartment or somebody living there?

Mr. Dunn: Yes I do. Now I do. Then I didn't.

Ms. Ditonto: So that's the issue of us trying to do a variance so I'm going to let the board members ask you questions and then there may be some other comments as well.

Mr. Olson: Ellen – just for your information, when the petition was put in, the property records downstairs still showed Habitat – that's why I recorded it that way.

Ms. Ditonto: Okay. Alright. Any questions from the board?

Mr. Daversa: I have one for Mr. Scalise. What is the City Code for building a house on a lot? Is there a minimum size lot to build a house?

Mr. Scalise: There is a minimum size lot in the City. There also is a clause stating that you can build a single family home on a sub-standard lot, so off the top of my head – I don't know what they are – the square footage – I want to say it's 8,000 square feet, 70 for the frontage.

Mr. Daversa: So roughly, that would be...I'm trying to get the size in feet, I guess the square footage doesn't help me a lot.

Mr. Scalise: 8,000.

Mr. Olson: 80 x 100.

Ms. Ditonto: This would be a sub-standard lot for a house because it's 65 x 90.

Mr. Daversa: Yes. So this would be considered sub-standard.

Mr. Scalise: You could build a single family home provided that he met all the setbacks from the rear, side and front yards, so we do have that where he could put it in. I believe this garage could fit well within that footprint of what would be allowed.

Mr. Daversa: ...because the garage is what 24 x 40 – right?

Mr. Scalise: Yes. And that's pretty much about the footprint of a typical house anymore.

Mr. Daversa: So this is kind of for my own information is that if he wasn't building a garage and was going to build a small house, would it be applicable?

Mr. Scalise: Yes. If he were to build a single family home of the same footprint, we wouldn't be here.

Mr. Daversa: We wouldn't be here? Okay. That helps me a lot. Thank you.

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Ms. Ditonto: Other questions? One question I have for you Sir is, we sometimes put conditions on variances like this. We understand how difficult it is with on street parking, especially in a congested neighborhood where you have a lot of that; but we would prefer that a lot that has a garage only on it, which is the exception, not the rule, that that property be sold along with the house for which the owner had built the garage.

Mr. Dunn: Right. I don't have a problem with that. Right now, actually it's willed to my daughter so if anything happens to me, it gets passed along because I don't ever plan on selling it.

Ms. Ditonto: So if the condition of the variance was that it had to be sold together, that wouldn't be a problem for you?

Mr. Dunn: Yes – that'd be fine. I don't have a problem with it.

Ms. Ditonto: ...and one of the items of hardship that comes into this type of variance is that is it self-imposed. You bought the lot thinking that you were free and clear to do with it what you wanted.

Mr. Dunn: I originally just thought that I just had to go get a permit, have it approved, have Larry come out and take a look at it and that'd be the end of it. I had no idea about this. Otherwise, it might have changed our minds at the time.

Ms. Ditonto: Sure. Okay. Any other questions from the board?

Mr. Scalise: I'm not sure, I can't remember who was on the board a couple of years ago. There was very similar situation further down Sixth Street near Sixth and Monroe where a gentleman did basically the same thing. The board did put the condition on it that it could only be sold with the property with the residence, or to one of the adjoining property owners that was there so that one of the other two that about it wanted to buy it from him and combine it into one parcel. The board did allow that as well.

Mr. Sixbey: How do you enforce that?

Mr. Scalise: We can go down to the Assessor's Office and they can put on the record that the two parcels aren't supposed to be severed.

Mr. Daversa: Would that be part of the deed?

Mr. Scalise: I know it's been done – I'm not sure technically what all was done.

Mr. Olson: They'd note it on the property card.

Ms. Ditonto: And does that become part of the electronic system so then it would be noted for anybody looking at it?

Mr. Olson: Yes.

Ms. Ditonto: Okay. If there's no questions from the board, is there anyone in the audience who would wish to speak for or against the petition? Seeing none, is there any correspondence?

Mr. Olson: Yes.

I, Deborah Gorman support petition of Michael Dunn for a use variance. The house that is in my name is Deborah Gorman, 314 W. 6th Street, Jamestown.

Signed: Deborah Gorman and Leona Anderson

The second one is from an Ellery Nickles.

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We have resided in this neighborhood for 38 years. There have been many up and downs in regards to how neighboring yards and houses are kept.

In 2000 we had the great fortune to acquire a new neighbor who has done a lot to improve the surroundings. His name is Mike Dunn and what an asset he has been. Friendly and helpful, always there when you need a helping hand.

He has informed us that he is now the owner of a lot on the corner of West Sixth and Jefferson St., and that he wants to erect a garage with a driveway entrance on Jefferson St.

This would be an additional asset to our neighborhood as up until now the lot hasn't been maintained very well. Litter and trash were always present in the bushes and grass and weeds were allowed to grow.

Since Mr. Dunn has become the owner, not only has it been mowed several times, but all litter and trash has been removed. How very nice it looks!

We can only envision how much nicer it will be when there is a purpose for this lot. Please consider our voice in this regards as any improvement will only enhance our beloved neighborhood. Thank you.

Mr. and Mrs. Ellery Nickles

They're located just out of the 100 foot area.

Ms. Ditonto: Just a couple of notes for you. Again, this wouldn't be that you could have a commercial storage facility. This would be just for your personal property and that would include no repair – I mean you couldn't be doing oil changes for people for money or anything like that.

Mr. Dunn: I don't do any of that. I can't do that anymore with my back.

Ms. Ditonto: Okay, and I guess one question for you Larry is that as it's situated on this drawing, it fits all of the other requirements in terms of proper setback, proper...

Mr. Scalise: Yes. I went through it with Mr. Dunn and it should meet all other setbacks. We tried to explore to make sure there weren't any other variances if we need them, we wanted to do them all at once. I don't believe there should be an issue getting it situated on the property.

Ms. Ditonto: Right. Other questions or comments? If not, we'd be looking for a motion at this point on the petition of Michael Dunn for a use variance.

Mr. Hanson: I would make a motion that we approve his request to build a 24 x 40' pole barn on that property with the condition that it become part of his house property and cannot be sold separately from that property, or that it become a part of one of the adjoining properties.

Mr. Dunn: Sure – no problem. I don't plan on selling it anyways. I guess I'm getting too old to move.

Mr. Daversa seconded the motion.

Ms. Ditonto: Thank you. Any questions on the motion with the conditions as stated, this would be for a use variance.

Carried: 5-0.

Petition approved. You have some work to do – you'll get a letter in the mail officially giving you the variance with those conditions. You'll have to work with Mr. Scalise now. Make sure you meet all those and thank you very much.

Mr. Dunn: Thank you very much everybody.

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James N. Olson, Director of Financial Services/
City Clerk
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