

August 3, 2022

Zoning Board of Appeals

Proceedings by Authority

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

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, August 3 at 5:00 p.m.

Members Present: Ellen Ditonto, Maria Jones, Steven Sandberg, Michael Panebianco, Todd Thomas, Todd Peterson

Members Absent: Robert Kenyon

Others Present: Larry Scalise, Benjamin Haskin, Leigh Anne Jordan

Chairwoman Ditonto called the meeting to order.

Chairwoman Ditonto: It's 5:00 p.m. and I'm going to call the Zoning Board of Appeals Meeting for Wednesday, August 3, 2022 to order. Just to note for the record we do have six board members present today; it takes four members to vote in the affirmative in order to have any kind of variance request approved. What we can do is we allow a member of the petitioners group to come forward when we read the petition, you must have your name and home address and you must state that each time you speak. If there is any person from the members of the public here, which I don't see any at the moment, but they are allowed to speak up to five minutes, and to state their reasons to be in favor or opposed to the petition request. At this time, we have two petitions on the Agenda and I will ask the Clerk to read the first one.

Acting Clerk Jordan:

**LEGAL NOTICE
ZONING BOARD OF APPEALS**

Notice is hereby given that the Zoning Board of Appeals of the City of Jamestown, New York, will hold a Public Hearing on **Wednesday, August 3, 2022 at 5:00 p.m.** in the City Council Chambers, Municipal Building, 200 East Third Street, Jamestown, NY to consider the following:

The application of James Robert George, 194 Ivory Rd., Frewsburg, NY and Davante Malik Strudwick, 125 Greenhurst Village Dr., Jamestown, NY for a use variance to operate a can redemption center on parcels 387.31-1-8 and 9 owned by James Robert George located at 712 Monroe Street, Jamestown, NY in an R-2 zone.

Section 300-0306 A: Can and bottle redemption is not a permitted use in the R-2 district. The first permitted zoning district is the C-M Service and Highway Commercial.

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Chairwoman Ditonto: Thank you. Is there someone representing the petitioner who can come forward? Please do so, and state your name and full address.

Mr. George: Hello, my name is James George. My home address is 194 Ivory Rd, Frewsburg NY 14738.

Chairwoman Ditonto: Thank you Mr. George. Can you explain in a little bit more details about the petition request?

Mr. George: Yes. So, I have a 10,000, roughly 10,000 square foot building on 712 Monroe Street, it's a commercial property I thought, and I'd like to turn it into a can redemption center. I think they were duct workers before and I bought the building I want to say four years ago or so and I'm ready to utilize it.

Chairwoman Ditonto: Again, this is at 712 Monroe Street, correct?

Mr. George: Yes

Chairwoman Ditonto: And at this time, we allow members of the Zoning Board to ask questions of you and then if there's anyone from the public or there's any correspondence, we also read that into the record. Ok? Are there members of the Board who would like to ask questions?

Mr. Sandberg: I have a question for Mr. Scalise. What is it about a can redemption center that might be objectionable to the neighbors in an R-2 Zone?

Mr. Scalise: I really don't know. I have to think that because it's almost retail in nature so I found the closest retail in the zoning district we could. What was in there before was a manufacturing facility sheet metal workers. Unfortunately, we've got apples to pineapples. The code says we're changing because of the amount of traffic, amount of space required, you know sounds, more refuse all could come in to play so those are items the board needs to look at and ask questions. You know, Mr. George can't find any use for his property then it lands in the code for our approval. The only business I know of that would operate in an R-2 is a single chair beauty salon in someone's home. So, he has limited options what he can do with the building there.

Mr. Panebianco: Was it properly zoned before?

Mr. Scalise: It was pre-existing best I can determine. When I started twenty-three and a half years ago the zoning district had that as an R-2 and I don't know what it was beforehand, because I wasn't here obviously so.

Mr. Sandberg: I think it use to be Tri-State Sign of Falconer.

Mr. Scalise: It goes way back.

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Chairwoman Ditonto: Other questions from the Board? Mr. George when I went by there, I noticed there was a “for sale” sign. Is that true?

Mr. George: There was. I was going to try and sell it before, I didn’t really get any hits on it so I figured I’d try to utilize it.

Mr. Panebianco: How long did you have it on the market for?

Mr. George: I think a whole year and my term was up.

Chairwoman Ditonto: And can you tell us a little bit more about those redemption centers in terms of the hours, how do they expect to get a truck in there in order to do a pickup?

Mr. George: So, it’s got, we’ll go with pickup first. It’s got a driveway from one end all the way to the other and I also had a meeting with Larry, and there’s an old back alleyway and he said we could possibly dissolve it into the property. So that would give me plenty of space plus there’s road frontage on the side going up Monroe Street, so it wouldn’t be on that busy street down below. I think there’s ample parking. And I think a lot of people around the area are going to walk too because the city is a more poorer area, so I think it’s going to give those people an opportunity to instead of throwing away their cans in the garbage to come down and recycle them.

Chairwoman Ditonto: Do you have a plan for hours for this operation?

Mr. George: I don’t have an actual plan at this second but I do have a friend of a friend who owns the one in Falconer and he’s going to help us out. I just wanted to make sure I could zone it first before I move forward. I even have the stuff for the DEC paperwork to fill out but again if I couldn’t get it zoned then there’s no really going forward. So basically, I was just going to try to follow whatever theirs was.

Chairwoman Ditonto: Mr. Scalise, can you clarify the question of Mr. Sandberg and also tell us how to expect the property in the back to fit into this.

Mr. Scalise: There is a city alley that’s back there I don’t believe is really utilized a whole lot. I don’t really remember having that conversation with you but I apologize. I know you talked about a lot of things that day.

Mr. George: Yes, we talked about parking and stuff.

Mr. Scalise: You’ve got the vacant parcel that is close to the parcel of the building so you do have a lot of access and you could get trucks to drive in and drive straight out if their small enough and tractor trailers would have to come up the street and back into the side

Mr. Sandberg: Can you tell us what you might have outside of the building or is everything in the operation going to be inside, or do you have any outdoor storage that might be of concern to the neighbors?

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Mr. George: No, everything will be inside the building. Like I said its 9,800 square feet and it's got a fifteen-foot overhead door, and like he said the truck backs up. My plan was the truck backs up into the alley and I could either have the cans on the pallet and fork them into the truck or however I could get them in there. Or they could come down the long driveway I guess and that would eat up some of the parking space for the customers. As of outdoor storage, zero.

Mr. Sandberg: So, you're thinking the trucks would back up the alley from Eighth Street, is that what you're saying to the door?

Mr. George: So, there's like when you come from Eighth Street there is that garage right there. You could turn in front of that garage and that's where the alleyway is. They could back up through there and just as long as they turn toward my building because it is angled towards the alley. They could back up enough for me to get it loaded. If they come from Monroe Street it would be a lot tougher. They would have to come up Monroe Street, which is a hill, turn into the driveway and back it all the way down the driveway.

Mr. Peterson: Let me ask you a question regarding that. It may be difficult to even foresee at this point as to how often you would have the tractor trailer pulling in to make a collection.

Mr. George: So, when I did talk to some of the other can redemption center, they said that they, also because of gas prices and stuff they won't come down and pick up cans unless I have a full tractor trailer load. They said another option was I could get with other smaller can redemption centers and we if we all went together and said, I get half of a truck, he gets a third, yada yada, so I can't tell you an exact you know but I have to fill a whole tractor trailer before I can have a pickup.

Mr. Panebianco: How much did you purchase the property for?

Mr. George: I purchased the property for I believe for \$67,000.00 four years ago. That was when I bought it from the guy, he said that was the assessment back in 1989.

Mr. Panebianco: And you put it on the market for a year and couldn't sell it during that year?

Mr. George: Yes, I was trying to attack the aggressive market and I was trying to sell it for a lot more, just to make a quick buck and try to dump it.

Mr. Panebianco: You put it on the market for, what did you buy it for?

Mr. George: I bought it for \$67,000, I believe it is assessed for a \$100,000.00.

Mr. Panebianco: What was the asking price?

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Mr. George: I was asking like \$280,000.

Mr. Panebianco: What offers did you receive?

Mr. George: \$225,000.00.

Mr. Panebianco: Someone offered you \$225,000.00 for it?

Mr. George: Yes

Mr. Panebianco: And you turned it down?

Mr. George: I did.

Mr. Panebianco: Was it a legitimate offer?

Mr. George: My real estate lady said I had an offer of \$225,000.00 and I said no.

Mr. Panebianco: That's all my questions.

Ms. Jones: Is there any processing of these cans, that would require any chemicals, by-products, washing or sorting associated with this business?

Mr. George: As far as I know so far, no, but I'm not 100%. I don't think I have to wash the cans; I think it's more or less I have to sort the cans. When I talked to, can't remember if it was Larry, or the DEC because it was so long ago, but one of them said the big problem about having a can redemption center is a lot of them are in gas stations and stuff like that sell bottles but the don't take the bottles that they sell which violates one of the rules but I won't be selling anything in there, I'll just be taking cans.

Chairwoman Ditonto: Any other questions?

Mr. Sandberg: Is there any noise involved? Are there compactors for compacting the cans or anything objectionable?

Mr. George: I'm not 100% sure, but I don't know how that works either.

Chairwoman Ditonto: Any other questions? I take it this a business partner of yours that is listed on the application, Davante Strudwick?

Mr. George: Yes, he has a newborn baby and couldn't be here.

Chairwoman Ditonto: And at this point in time do you have a business plan just for the redemption center? You don't have other plans for other types of businesses?

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Mr. George: So, I am a Union Electrician and my very first plan was it was going to be my own shop, but then I got organized into the union, and I have a pension, so I couldn't beat that. But in the future possibly an electrical shop. In the back is where the can redemption center would go. There's also 980 square feet of offices in the front and I could run a small one or two man shop out of it eventually, but I don't really have a plan for that at this point.

Chairwoman Ditonto: And Mr. Scalise, just for clarification, a use variance allowing any type of business could be put in there after the property is sold?

Mr. Scalise: If would be something similar to retail, like another can redemption center. If you go and change it to something different, we would have to come back before the board. It's just in kind, like pieces.

Chairwoman Ditonto: So, a retail operation like a redemption center but no other type of retail?

Mr. Scalise: A retail like a Dollar General possibly that type of retail could possibly. A chain like that wouldn't go in a place like that. Just for an example.

Mr. Haskin: Not to interject, but I think a complication with specific zoning with it being in the code that it lays out its own kind of thing that is shoe horning it into the commercial code of operational purposes which is going to allow a slightly larger possibility of what could go in there and still fall into a use.

Mr. Panebianco: Could someone clarify, what's this zoned for currently?

Mr. Scalise: R-2, two-family residential.

Mr. Panebianco: What about a grocery store, transmission auto repair? Were those zoned into the neighborhood?

Mr. Scalise: The transmission repair shop has been auto body/auto repair for a number of years. Again, that use was there before I was on board so it was pre-existing.

Mr. Panebianco: Do you have any idea sir why the person who offered \$225,000.00 for the building? What were they intending to do with that?

Mr. George: I have no idea, I didn't ask.

Mr. Panebianco: My question, I guess would be, if someone bought that to try and run a business out of it, they'd have to come before us and ask for a variance at that point?

Chairwoman Ditonto: It would go through Zoning.

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Mr. Panebianco: So, no businesses could go in there. So, if you were to make use of this, basically you would have to convert it into a home.

Mr. Scalise: The cost of converting that to a two-family home. I don't think you'd get your money out of it.

Mr. Panebianco: Someone offered \$225,000 for it.

Mr. Scalise: I have to assume it was not an actual use for it.

Chairwoman Ditonto: Would the electrical business that the petitioner said he originally had purchased it for, that would still have to come before the Zoning Board because it wouldn't fit into that.

Mr. Scalise: Yes, unfortunately the time frame for what was manufacturing before has lapsed year. The idea of grandfathered would go so pretty much anything that goes in there is going to have to go before the board unless it is a similar type of retail operation.

Chairwoman Ditonto: So just so you know, Mr. George, the only seemingly type of business that could be put in at this point is the redemption center because that is why you've come before this board.

Mr. George: Correct.

Chairwoman Ditonto: And you said at this point you said you don't have a detailed business plan, but you've talked with someone who runs a similar center in the area?

Mr. George: Correct. Yes.

Chairwoman Ditonto: And then you talked to the company that picks up cans so you know for sure that they will?

Mr. George: I have not but I understand that there's like one basic company that picks them all up. There's not like a whole bunch of different types. I think there's only main company that kind of monopolizes it.

Chairwoman Ditonto: And do you have a plan for how many people would work in this business?

Mr. George: It's going to be myself, my partner, and possibly my girlfriend just to get it going. I don't know what it's going to do.

Mr. Peterson: Do you have the capacity to have other people, if in fact the business say is approved, takes off?

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Mr. George: I do not have any insurances right now for like workman's comp, stuff like that, because again there's no point to do all that until it was zoned. So, this is more or less this was the first step and kind of see what goes on before that. Like he pointed out the building is assessed at \$100,000.00 and I barely owe \$30,000 on it so I have equity to build it in the future if it does take off.

Chairwoman Ditonto: Any questions? Is there anyone from the public that would need to speak? Was there any correspondence?

Acting Clerk Jordan: No, there was not.

Chairwoman Ditonto: Seeing no other questions from the board, I'll be looking for a motion to grant the variance request for the property at 712 Monroe Street to be used for a can redemption center which is outside of the normal zoning in that area.

Moved by Ms. Jones, seconded by Mr. Thomas

<u>Member</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Thomas	X		
Panebianco	X		
Sandberg	X		
Peterson	X		
Jones	X		
Ditonto	X		

Chairwoman Ditonto: The motion for a use variance has been approved. Please work on a next step with Mr. Scalise and hopefully the Small Business Development Center.

Mr. George: Awesome. Thank you! I appreciate it.

Chairwoman Ditonto: Have a good night.

Chairwoman Ditonto: There is one additional request at this point. We will have the Clerk read the request.

Acting Clerk Jordan: The application of Mindy Moore, 256 King St., Jamestown, NY for an area variance to erect a 24' x 40' storage garage on parcel 387.16-4-5 owned by Mindy Moore located on King Street in an R-1 zone

Section 300-0317 (F): No garage shall exceed 720 square feet in area and have a dimension that exceeds 36 feet.

Mr. Scalise: I'd like to address the board.

Chairwoman Ditonto: Ok, Mr. Scalise.

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Mr. Scalise: Some confusion came up in regards to this petition I just want to clarify. Ms. Moore actually combined two parcels; a vacant lot, the garage is proposed on. And then she has a house a couple doors down the street from it. The assessor does have the ability to adjoin them so they are one parcel even though they are separate. One can't be sold without the other so if she sells both of them go together as a package. Because that's the fact and we have the primary usage which would be the home which is why we are not asking for a use variance on the property now, we are just addressing the size of the building. The use is permitted.

Chairwoman Ditonto: Thank you and could you clarify for us what other property is now joined to 256 King Street?

Mr. Scalise: It would just be the property the house is on

Ms. Moore: Yes, it is the 256 King Street and then its, well there's two houses in between my house and then it's an empty lot I bought at the county auction years ago

Chairwoman Ditonto: I just wondered what the address of the house was.

Ms. Moore: My house is 256 King Street in Jamestown. Actually, there use to be when I moved in many years ago there use to be a house there but it was torn down and it's been an empty lot for many years. I know it was a King Street because actually English comes up and meets King right there and I don't know if any of you are familiar with that, but it's that big lot right there. And actually, it was overgrown and had garbage and trees, we've cleaned it up and actually the neighbors have been very happy and even commented how well we have taken care of it.

Chairwoman Ditonto: Thank you. Can you for the record please just state your full name and address?

Ms. Moore Mindy Moore, 256 King Street, Jamestown, New York.

Chairwoman Ditonto: Ms. Moore can you tell us about the need for this storage garage which exceeds the zoning. It's 960 feet total versus the allowable amount of square feet which is 720.

Ms. Moore: Yes, unfortunately my husband has a bad habit of, he likes cars. He has three classic cars and then another one that's not classic but a nicer car. In addition to the ones that we normally drive. He actually is paying to store them actually on Crescent Street and not only does it cost money but actually there's been some mildew problems in there, so we're worried about them getting damaged. I like kayaking so I would like to store my kayaks in there. They're currently over, I have a rental property, so I have to go over there any time I want them. So just the cars and a little storage.

Chairwoman Ditonto: Are there members of the Board who have questions? Yes, Mr. Sandberg.

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Mr. Sandberg: The sketch that you provided on top of the survey indicates a 24' x 40' garage?

Ms. Moore: Correct.

Mr. Sandberg: With the narrow side the 24 feet dimension facing King Street. Is that where the door would be on that end?

Ms. Moore: Yes, there will be a double garage door on the front and then there would be a single man door on the left-hand side of that.

Mr. Sandberg: Ok. Had you ever given any thought to locating that somewhere else on that piece of property so it wouldn't be quite so close to the adjacent house?

Ms. Moore: No because we wanted to leave space in case like maybe someday if we wanted to build like another house there or something, we could split the property up again if we needed to; but there's plenty of room there. We could have not had to go for a variance and built two garages but we thought it would be more nice for the neighborhood and look better to just have one.

Mr. Sandberg: And you own this entire parcel up to Vinnie Street?

Ms. Moore: Yes.

Mr. Sandberg: Ok that's what I thought.

Mr. Peterson: Have you given consideration as to how you're going to access the garage if its approved? Is there a driveway?

Ms. Moore: There's an existing driveway there.

Chairwoman Ditonto: Can you tell us about the build this is going to be on concrete pad, I mean what are you going to use?

Ms. Moore: At first, I have to look and see because I have to get a loan for it. We're planning on the building and I think we should be able to do the concrete pad too, but if not, maybe the concrete pad would come next year. It's going to be metal, a metal building and actually I was talking to my husband and I want to keep it a color somewhat that blends in with the neighborhood.

Chairwoman Ditonto: And the total height on that can you tell us?

Ms. Moore: I think it's going to be, I think they said that mine is 10' so it's going to be 12' just so that like I can put my car in with my kayaks, because my existing garage I can't do that.

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Chairwoman Ditonto: The reason I ask is because there also is a requirement that it not be higher be more than 18 feet. Because there isn't a house there its very difficult for us to be able to tell what the allowable height would be.

Ms. Moore: It won't be second story or anything like that.

Mr. Sandberg: Can you tell us how tall the garage door will be?

Ms. Moore: Um, well mine, I'm not sure about measurements but it's probably like this tall, but if I have my rack on the top of the car it just doesn't clear by about this much. And so, I want like one more panel width higher than my garage where the house is at.

Mr. Sandberg: Ok a standard door is usually 7 feet so you're probably talking 9 feet.

Ms. Moore: Probably.

Mr. Sandberg: Ok

Chairwoman Ditonto; So less than 12 feet it what you're saying.

Ms. Moore: So actually, then it's probably a 10 foot garage.

Chairwoman Ditonto: Other questions?

Ms. Jones: Any drainage close to the other homes for this building?

Ms. Moore: As a matter of fact, it's very wet up in that area, that lot and even flowing down to my yard and that's one thing. There's some big weeping willow trees and it's been discussed about cutting them down and I told my husband that we're not doing that because the whole neighborhood will have worse problems. And if there's problems with it then maybe at a later time we can put in a drainage across the property. But as of right now I don't think it that will make it any worse than what it is.

Mr. Sandberg: I would work with her to make sure there is gutters and downspouts and its directed away from the neighbor.

Ms. Moore: Ok I guess I didn't understand the question.

Chairwoman Ditonto: Ok so there's gutters and downspouts that you'll make sure.

Ms. Moore: Absolutely I was thinking more of the land itself.

Chairwoman Ditonto: And the neighboring properties, have you talked with the neighbors about this project?

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Ms. Moore: Yes, as a matter of fact, one of the neighbors on the Vinnie Street side he said if you want me to, I'll come with you, I'm fine with it. And I said I think we're good and he showed me the letter and I think I said that's mainly if you have a problem with it.

Chairwoman Ditonto: And the fact that it exceeds the size in addition to the 3 or 4 vehicles and the kayaks this would not be used for any commercial purpose, would it?

Ms. Moore: No, No.

Chairwoman Ditonto; Alright are there any questions? Is there any correspondence on this?

Ms. Jordan: No.

Chairwoman Ditonto; If not we would be looking again for a motion on the area variance to construct a 960 square foot garage for storage of vehicles and boats on the property at 2, I want to get the address correct here, on King Street and the property is again the number 256, considered part of the parcel.

Mr. Scalise: The BPU is going probably have you go back to the number that the house was so they can put a meter on it. You can't have two meters for a single house.

Ms. Moore: Right.

Chairwoman Ditonto: Is there a motion?

Moved by Mr. Panebianco, seconded by Mr. Peterson.

Chairwoman Ditonto: Are there questions on the motion? Seeing none, Clerk please poll the board

<u>Member</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Thomas	X		
Panebianco	X		
Sandberg	X		
Peterson	X		
Jones	X		
Ditonto	X		

Chairwoman Ditonto: It has been approved. Please work with Mr. Scalise to get all the details worked out. Good luck with your project.

Ms. Moore: Thank you very much.

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There being no further business, the meeting was adjourned. 5:30pm

Leigh Anne Jordan, Acting City Clerk
Zoning Board of Appeals