

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
OCTOBER 25, 2023**

MEMBERS PRESENT:

In Person: James R. Stevenson, Chair
Robert Haley, Vice Chair
Edward Slegeski
Kevin Hood

ALTERNATES PRESENT:

In Person: Linda Harris, Sitting
Harun Ahmed, Sitting for approval of minutes only
Gailyn Hill

ABSENT: Sandra DeCampos, Secretary

STAFF PRESENT:

In Person: Megan Pilla, Principal Development Planner
Electronically: Katie Williford, Administrative Secretary

The Chair opened the Public Hearing at 6:59 p.m. The Vice Chair read the legal notice for the application when the call was made.

THANH DAI – application #VAR-0056-2023 – Request a variance from Art. II, Sec. 1.03.01(v) to allow an Accessory Dwelling Unit (ADU) on a duplex lot at 69 Birch Street (a.k.a. 73 Birch Street), Residence B zone.

Mr. Stevenson noted that Ms. Harris was seated.

The applicant, Thanh Dai, 78 Forest Street, presented the application. She stated that the lot has a duplex with two units, as well as a smaller building (less than 500 sq. ft.) off to the side that used to be a salon. Birch Street is mostly a residential, multifamily area, so it is a barbershop in the middle of a residential area. Ms. Dai stated that it could not survive as a business there. She said she sees only two options: 1) Leave it vacant, in which case there would be no income coming from the unit, so it could not be maintained; or 2) Turn it into a one-bedroom studio, so it could be used and maintained. She said her proposal would be good for the neighborhood because it would be a better fit for the multifamily, residential area. In summer, she said, people hang out there because the building is vacant. Converting the building to a residential use would prevent that and would bring in more taxes for the town. It would be good for everyone, Ms. Dai said.

Mr. Haley asked whether Ms. Dai resided on the property. She stated that she does not; there are currently two families living in the duplex. Mr. Haley pointed out that the aerial photo of the property shows 11 cars. Ms. Pilla stated that the photo was from the Town's GIS, so it was probably taken in 2016 or 2019, and she was not sure when the barbershop closed.

Mr. Haley asked if Ms. Dai was planning for just one family to live in the ADU. She responded that it would be a one-bedroom studio, so she expected one or two people would live there, at most.

Mr. Stevenson asked if each side of the duplex has three bedrooms on the second floor and one bedroom on third floor. Ms. Dai confirmed that was correct. Mr. Stevenson asked if the duplex was currently occupied, and she confirmed that one family lives on each side. Mr. Stevenson asked if each side has up to four bedrooms to use in the main building, which Ms. Dai confirmed.

Mr. Slegeski asked if the accessory building has been improved or modified, or if it is still in the former condition. Ms. Dai said that it was rented to be used as a barbershop, so she applied for a building permit to renovate it into a one-bedroom studio, but she was told she needs a variance first. She confirmed the building is still in the old condition.

Mr. Haley asked whether the applicant has tried to move another business in. Ms. Dai replied that there were two attempts. There was another barbershop before the last one. They weren't able to survive because the area is not conducive to doing business. Mr. Haley asked if that was while Ms. Dai was in control of the property, which she confirmed. In response to a question from Mr. Stevenson, she said that she has owned the property since 2011.

In response to questions from Ms. Harris, Ms. Dai said that the building had two barbers since 2011 and the last one left in the beginning of this year. She added that the barbers couldn't do much during the COVID pandemic, so she didn't charge full rent, and after that they lost customers. She reiterated that the location is not conducive to doing business.

Ms. Harris asked for confirmation that the hardship is not that the applicant is losing money. Ms. Dai said it is not viable to keep the building in its current condition. If she brought another business in, she said, it would not do well either, so that would not be good for them or for her. A one-bedroom fits the area much better, she said. She said the hardship is that there's no income for that and, if she has to pay taxes and maintain the property or keep people out, if people move in, there would be a presence there for the neighborhood, to keep people away.

Ms. Harris asked if Ms. Dai knew whether there was a need for a one-bedroom in that community. Ms. Dai said she was not sure, but there will be because there are always people looking to rent.

Ms. Harris asked if there would be enough parking. Ms. Dai responded that there is plenty of parking because it was built as a business. There are seven parking spaces. Ms. Harris asked how many parking spaces per unit are allotted for the current tenants. Ms. Dai said that one unit

has a driveway where they can fit two cars, and the other has parking behind the building. However, because no one is using the parking spaces at the former salon, they park there.

No members of the public were present to speak on the application.

Ms. Pilla said that there were no comments from staff on the application or the plans. Staff did note that the accessory structure is slightly over the front property line. Built in 1900, it predates zoning and possibly the location of the street line there, so that is not an issue and does not require any separate approvals. She clarified that the variance is required because this is a duplex lot. ADUs are permitted by right on single family lots.

In response to questions from Mr. Stevenson, Ms. Pilla confirmed that the commercial accessory unit is preexisting nonconforming, and that third floor occupancy is allowed in the main duplex structure.

Mr. Haley asked whether setbacks will be a problem if the use changes from commercial to residential. Ms. Pilla said that the setbacks would stay the same because the zone would not change.

The public hearing on application #VAR-0056-2023 was closed and the public hearing portion of the meeting was closed at 7:13 p.m.

I certify these minutes were adopted on the following date:

November 29, 2023

Date

James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN
BE HEARD IN THE PLANNING DEPARTMENT.**

kmw