

**MINUTES OF BUSINESS MEETING
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 Business Meeting at 7:13 p.m.

CONSIDERATION OF PUBLIC HEARINGS:

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.

MOTION: Mr. Haley moved to approve the variance for the purposes of discussion. Ms. Harris seconded the motion.

Mr. Haley said he would have trouble with approving this application. The accessory building was built for commercial use and wouldn't have been allowed to be built otherwise, he said. He added that he did not see a hardship. COVID is over, and it is a short period of time that the property hasn't been able to be filled with commercial. He could not support the application, he said.

Mr. Hood said that the road probably moved, not the house, as roads tend to get wider. He did not think the setback is an issue.

Ms. Harris said she thought the Board should approve the variance. She stated that the barbershop predated the current regulations, it is in the middle of a residential community, and

there is a need for housing. It sounds like a good use for this property, she said. She added that the Town would get taxes from it, instead of having it sit vacant.

Mr. Haley said he was concerned that, if the Board approved this application, there would be requests to build ADUs at every duplex in town. There are a lot of duplexes on this street and, if the Board approved this variance, it would be hard to deny similar requests in the future. He said, although it would be unfortunate, he would rather see the building torn down than go against the zoning regulations.

Mr. Stevenson asked whether, if an ADU were proposed at another duplex, it would have to abide by setbacks, etc. Ms. Pilla confirmed that it would.

Mr. Slegeski said he was willing to approve it, but Mr. Haley's comment about requests to build ADUs at other houses in the neighborhood made him think about it more.

Mr. Haley acknowledged that Mr. Stevenson was right; applications must be considered on an individual basis. This one is a little different, he said, although he had concerns about it.

Mr. Stevenson said he supported the application for some of the reasons Ms. Harris stated. It is unique because it has been there for 120 years, was built before zoning, and is a unique circumstance in the neighborhood. He said that neighborhoods aren't what they used to be. In the past, one might have found a barbershop in a neighborhood, but that is not the case anymore. He agreed with the applicant's statement that the location is not conducive to a business of any kind. He pointed out that, if someone else wants to build a new structure, they'd have to come to this board because ADUs are not permitted for duplexes, so the Board could control it that way.

Mr. Slegeski asked if a commercial entity, such as a cannabis store, could move in there. Ms. Pilla said that cannabis stores require a special exception from the Planning and Zoning Commission. Mr. Slegeski asked if another commercial entity could move in. Ms. Pilla said yes, as an existing nonconforming use in the zone, they are entitled to the same uses as the most restrictive zone that allows the previous use. In other words, if it was a barbershop, that counts as a personal service use, and they are entitled to the same uses as the most restrictive zone that allows personal services.

Mr. Slegeski asked, if someone in the neighborhood asks to construct a building, if there is a minimum size that building would need to be. Ms. Pilla said there is for a residence, but not for a commercial use, as long as it meets building and fire code.

Mr. Stevenson said the proposed use would be a less intensive use for the location. A barbershop or other personal service could have 10-30 customers a day from 8:00 a.m. to 8:00 p.m.

Mr. Haley said, after listening to this discussion, he changed his mind. The neighborhood would be better served by not having an empty store there. Even though he did not like the idea of it, he thought it would fit in as residential. It is already there; if they were asking to build one, he would be against it, but since it's already there, he thought Mr. Stevenson was right.

Ms. Pilla pointed out that, because the motion was for purposes of discussion, it did not include a specific reason for approval. She asked for clarification.

MOTION: Mr. Haley moved to approve the variance because it fits in with the neighborhood and would be the preferred use of this property. Ms. Harris seconded the motion and all members voted in favor.

APPROVAL OF JULY 26, 2023 MINUTES: PUBLIC HEARING AND BUSINESS MEETING

MOTION: Mr. Ahmed moved to approve the minutes as written. Mr. Haley seconded the motion. Mr. Stevenson, Mr. Haley, Mr. Hood, and Mr. Ahmed voted in favor. Mr. Slegeski and Ms. Harris abstained.

RECEIPT OF NEW APPLICATIONS

JONATHAN PIELA – application #ZSE-0005-2023 – Request a special exception modification under Art. II, Sec. 16.15.01 (b) for installation of single-story storage units on existing unused paved parking area at 199 & 205 Adams Street, Industrial zone

Ms. Pilla said that the Board previously approved a special exception for an adult day care at this location. The property owner is interested in putting in self-storage units on the other side of the property. That is a permitted use in the zone, but because the adult day care was approved with a certain site plan, the Board would need to approve a modification to that site plan as it relates to the adult day care.

OTHER BUSINESS

Upcoming Training Opportunities

Ms. Pilla said she intends to put all upcoming training opportunities in a document and send it to the Board.

The meeting was adjourned at 7:27 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 BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.

kmw