

**Zoning Board of Appeals
Meeting Minutes
One Court Plaza
January 28, 2013**

Present: J. Wright, G. Cleveland, R. Shackelton, M. Cornelius

Alternates: *

Absent: B. Natoli, E. Morano, S. Sutton, P. Mennis

Staff: Todd Dreyer, Amy Donnison, Jason Lawrence

Also Present: Mayor J. Maiurano, Ald. T. Bresina, Ald. D. Palmer

* Alternates with voting power are noted in **bold**.

I. Call to Order

Chairperson J. Wright called the meeting to order at 7:02 PM. Chairperson J. Wright stated that the Board is made up of volunteers to enforce the regulations put in place by the Common Council, and that they have up to 62 days to make a decision on the request before them. The decision that will be made is based solely on the record and information presented to them during the hearing process. There is 1 case before the Zoning Board this evening: a Use Variance request.

II. Public Hearing: Salvatore Grippaldi – 38 Berry Street

The public hearing was opened at 7:05 PM. The following exhibits were entered into evidence:

1. Application from Salvatore Grippaldi dated December 23, 2012.
2. Community Development report dated January 15, 2013.
3. Photographs of property
4. Copy of tax map of property
5. 239 Review Submission & Response
6. NYSDOT review response
7. No correspondence received in support or opposition
8. Phone call received and neutral regarding this proposal.
9. Public Hearing Notice (mailed by the City to all property owners within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that the only response from anyone in the neighborhood was from a property owner at 27 Berry Street who stated that she was neutral on the proposal. Also received a response from the Chenango County 239 Review Committee which states they approve the request with the following recommendations or concerns;

- Recommend an oil/water separator for fluids from stored vehicles and parts

- Recommend setting a limit on the number of unregistered cars being stored on the property

- Recommend constructing a privacy fence around the stored vehicles and parts

- Recommend complying with all NYS specifications for Auto Repair shops
- Comply with NYSDOT

Also received a response from the NYSDOT which states;

- We have reviewed the application for the above referenced location and have no concerns.

Sal Grippaldi stated that he has been in the auto body repair business for 24 years, 16 of those years has been running his own shop. S. Grippaldi also stated that he has been in the small construction business for the past 2 years. Right now all of his tools, work trucks and other equipment is stored at his home garage on Birdsall Street as well as other locations all around the area since he has no one place large enough to hold everything. If this proposal is approved he would be able to relive the clutter at his own residence as well as the other areas he has items stored. It would also make his work much more efficient if everything could be stored at one location. S. Grippaldi stated he would cut all the overgrown bushes back, install a stockade fence and there would be no on street parking. The auto body shop would be a low volume shop and his customers are primarily friends and family. There would be no signage indicating what the business on the premises would be. The buildings would be scraped, repointed where needed and painted white.

Chairperson Wright asked for clarification regarding the signage – you want to locate and run 2 businesses from this location but do not plan nor want any signage indicating same? S. Grippaldi this is correct - no signage but would advertise in local papers, etc. S. Grippaldi stated he is not looking to do a car a day and that most of his work centers around older vehicles and high end restoration. S. Grippaldi states he still gets calls from down state customers and they are willing to bring their cars here to have them repaired. G. Cleveland asked if this included engine repair. S. Grippaldi stated that he performs mostly restoration and he is not a mechanic. R. Shackelton asked if there were employees or a work crew. S. Grippaldi stated no. M. Cornelius asked if the current structures would be repaired and used or removed. S. Grippaldi stated that they would be repaired as they didn't seem to have any structural issues. He would also remove all debris from the property and clear the yard. In regards to

meeting local codes he will meet all of the NYS Codes in regards to having a spray booth for cars. Property will be secured; all overgrowth cleared but will leave trees as a green barrier around the perimeter. This property can be seen clearly from Rexford Street at this time of year when there are no leaves on the trees. Chairperson Wright inquired about the rules for a spray booth. J. Lawrence stated these regulations are set by the EPA and NYS.

S. Grippaldi stated that in regards to chemical waste, when he had his business for auto body repair down state he barely generated 5 gallons of waste a year and it is picked up by an authorized hauler. Very little material is wasted and also noted that due to his own hearing issues he checks the decibel levels on all tools before he purchases them. S. Grippaldi stated that he started this business out of his father's garage so he had to be respectful of the neighbors in regards to noise. The hours of operation will be regular daytime business hours. Anytime he is at the shop at night he will not be doing anything that will generating noise. S. Grippaldi gave a letter he received from his former landlord of his business downstate and the landlord stated that Mr. Grippaldi always paid his rent on time, got along with the other tenants in the building, ran a successful auto body business and never failed to always help others.

T. Dreyer stated that he is assisting the applicant because the property is owned by the city at this time. T. Dreyer reviewed the information he provided with the application that all members received. T. Dreyer asserts that this property has inherent hardships. Chairwoman Wright and G. Cleveland asked for clarification regarding the hardship section of the request that must be proven. T. Dreyer stated that the hardship is inherent in that the property itself as it is has unique physical characteristics and that this property is not suited for any other use besides industrial or commercial. The applicant has not sustained a personal hardship because so far he only has the ZBA fees invested in this property to date. The reason for this property being poorly suited for residential use is because it is located between 2 businesses already. Roots and Wings is on the east side and the Chenango County DPW on the west side therefore he did not believe this business would change the character of the neighborhood. There is a residential home located on the north and south side of the property. T. Dreyer stated he received an estimate of \$25,000 from Burrell's Excavating to demolish the building. T. Dreyer also received a letter from Patrick McNeil, Real Estate Agent for Peggy Parker Real Estate stating that in his opinion it would be difficult to sell this property for a use allowed by right in its R-2 zone. T. Dreyer noted that the City received 3 RFP's and that none of them were for uses allowed by right in an R-2 zone.

M. Cornelius inquired about the increase of traffic on the street. S. Grippaldi stated that there would be very little, only his own work trucks and the occasional car that he would be restoring. This location would not be a place where customers would come like a store would be. G. Cleveland asked if it would be possible to have the vehicles exiting this property to go down Adams Street due to

the sometimes heavy street parking already on Berry Street. S. Grippaldi stated that he has tried to reach Gary at Roots and Wings but so far no luck, they are playing phone tag at the moment. The reason for wanting to reach Gary is that he wished to make a proposal to Roots and Wings in regards to parking on his property. S. Grippaldi stated that he would be willing to allow the employees of Roots and Wings to park in a designated area on his property as long as Roots and Wings are willing to pay for the paving and insurance for this offer. This would allow the employees to park off the street and relive some of the congestion in that area. Chairwoman Wright stated that she thought this was a very generous offer to Roots and Wings and hopes to see it followed through. Chairwoman Wright also inquired about screening for the parking area and inquired if S. Grippaldi had any drawings or site plans for the board members to review. J. Lawrence stated that there would be no choice because our zoning parking requirements for areas in a residential zone that will have 6 or more parking spaces must be screened. S. Grippaldi stated he had no site plans or drawings that would show the end results of his proposal.

T. Dreyer states in his opinion this case is not one of a self created nature as this property has been used for commercial purposes since 1920's. T. Dreyer referenced the resolution from the Common Council showing that Sal Grippaldi is the preferred purchaser and also stated that even though the Zoning Board is appointed by the Common Council, this board is an independent entity. The ZBA may weigh the positions of the Common Council and Mayor as they find appropriate.

Chairwoman Wright inquired if there was anyone in the audience who would like to speak.

Dan Dewey, 28 Berry Street, stated that he lives 3 lots away from the parcel being discussed and a major concern of his is traffic. Mr. Dewey stated that today alone there were 31 cars parked from Roots and Wings all the way back up the street. It is often difficult and sometimes impossible to get in and out of your own driveway, especially if you are towing anything like a boat or trailer. Mr. Dewey asked S. Grippaldi what size his work trucks are because he will likely encounter the same difficulty in getting down Berry Street or even Adams Street. S. Grippaldi stated that he had a bucket truck, and a trailer the size meant to haul cars on. When tractor trailers arrive with a delivery for Roots and Wings they have to back down the street and it is often quite a production to see. Mr. Dewey stated that he is aware of the City owning the strip of property which was formerly railroad property that runs from Rexford Street north behind the parcel in question and wondered if it would be possible for the City to give Mr. Grippaldi access to his property through that right of way. Mr. Dewey has spoken to several people in the neighborhood and stated that the owners of 27 Berry Street, Rick and Sharon Reihl, who called the Codes Office to inquire about the proposal, were all in agreement that the traffic and parking were the biggest concern. Mr. Dewey stated he was not in opposition to the proposed business but

was in opposition to anything that will make a congested small street even more difficult to navigate through.

Richard Barnes, owner of 29 Berry Street, stated that he is in opposition of the proposed business due to the increase it will cause on the narrow street and stated that he didn't think this neighborhood could handle another business on it. Mr. Barnes did agree however with Mr. Dewey that access could be granted by the City to use the old railroad property he would not have a problem with it. Mayor Maiurano stated that he thought the City could definitely give Mr. Grippaldi access to this property through the old railroad right of way. A question was asked regarding the legal liability of giving permission to use city property for the purpose of an individual or business. J. Lawrence stated that this practice is already being done and cited the Bohemian Moon Restaurant on East Main Street which uses city property for its customer parking. Again, the question of legal liability with no answer. Mr. Barnes also noted that he understands the City wants this property to be back on the tax rolls and as a city resident he wants the same thing but does not believe the City has looked and very many options for uses that would not require a variance – only the easiest routes – because this parcel can definitely be used for residential purposes. Mr. Barnes stated that it is a regular occurrence to see beds, dressers, etc going up and down the street on vehicles. Mayor Maiurano stated the Mr. Grippaldi will not add to the traffic.

Chairwoman Wright asked A. Donnison if the Board could ask for a continuance on this case because she feels that there is a major traffic problem already in the area and is hearing even more concerns regarding the same and wonders if the board should wait on a decision until they can contact the city traffic commission to get their input. A. Donnison stated the board has 62 days to make a decision so if they wish to wait they may do so. Mayor Maiurano stated the traffic commission has nothing to do with this hearing for a variance and that he has traveled down this street many times as well and does not believe this is an overly trafficked area. Mayor Maiurano stated he believed that if this parcel was used for a residential purpose that there would be more traffic than if it is approved for the proposed business. Mayor Maiurano wanted to point out that Mr. Grippaldi has acquired several other properties in the city and has made notable improvements to them all. Mayor Maiurano stated that when Mr. Barnes first wished to locate his current business on Brown Avenue there were many neighbors who came to the hearing expressing concerns about increased traffic and yet it was approved and there does not seem to have been any adverse effects to the neighborhood due to an increase in traffic. Mr. Barnes agreed and stated that his property, when approved for its use, also had some very strong restrictions that came with the approval and suggested that if this also is approved that the board consider similar restrictions that will go with the building should it be sold in the future.

Discussion regarding the involvement of the traffic commission and the traffic problem on this street resumed. Chairwoman Wright brought the hearing back in

line stating that the Zoning Board only makes decisions on the cases before them not what another board or commission may or may not do. Chairwoman Wright noted that the low volume of traffic will be considered.

M. Cornelius asked S. Grippaldi about the specific vehicles he would be driving on Berry Street. M r. Grippaldi stated that one is a dual wheel dump truck; one is an E350 boom truck and also a car hauler/trailer.

Chairman J. Wright asked if anyone present had any further questions or comments. There were none and the public hearing was closed at 8:23 pm.

Findings & Determinations for Salvatore Grippaldi re: 38 Berry Street

Applicant wishes to use structures at 38 Berry Street as a storage facility for his construction business equipment as well as a location for auto body repair shop.

This property is located in an R-2 zone which requires a use variance for an auto body repair shop.

This parcel has been used as a commercial use since the 1920's primarily for oil companies until recent years.

Applicant states the use will be a low traffic volume business.

Applicant states there are no employees or work crews that will be on the property – only himself and his sons.

The current buildings will be repaired and repainted and used for construction equipment and vehicle storage as well as auto body repair shop.

Applicant states there will be no business signage on the building.

Applicant proposed installing stockade style fencing on the north and south side property boundaries as screening for the residential properties.

No drawings or site plans were received to review.

Received one phone call of a neighbor who was neutral on the proposal.

Two neighborhood property owners were present – 1 was neutral, 1 was opposed.

Parcel will have gates and be secured.

Overgrowth and debris will be removed.

The history of the parcel has been one primarily of an oil distribution facility.

This parcel was formerly zoned industrial – the proposed use is not allowed by right in an industrial zone.

The City of Norwich acquired this parcel through unpaid property taxes.

A resolution by the Common Council designates Salvatore Grippaldi as the preferred purchaser.

The City of Norwich received 3 RFP's and all required a use variance.

Letter from Patrick McNeil, Peggy Parker Real Estate, and stating property would be difficult to market for allowed uses.

The surrounding neighborhood is primarily residential.

This parcel has the Chenango County DPW and Roots and Wings on each side of it.

This parcel exceeds all Open Space Requirements.

Applicant states noise level will be low and will only be during regular business hours.

The proposed use will not generate retail traffic into the area.

On street parking is not needed.

Applicants purchase proposal is pending the results of this evenings hearing.

Neighbors in attendance voiced traffic concerns.

Chenango County 239 Review Committee has made recommendations.

NYSDOT had no concerns.

Letter of support received from S. Grippaldi's former landlord for the business he had located on Long Island.

The applicant cannot realize a reasonable return.

The alleged hardship relating to the property is unique.

The requested use variance will not alter the essential character of the neighborhood.

The alleged hardship has not been self created.

Discussion:

M. Cornelius stated no diagrams or drawings received but that since all members drove by it and made themselves familiar with the property and its layout along with the photos of the property made it pretty clear to see how the proposal will fit. Chairwoman J. Wright noted that the applicant stated he would pave or put another type of approved solid surface for parking down and noted that with all the other repairs and work needed on the property it will be an expensive project for a small business. R. Shackelton noted that R. Barnes suggested a restriction on the property should it change hands in the future that it revert back to an R-2 use. G. Cleveland stated that even though the applicant has stated he will not install business signage on the property he would be able to put signs up indicating parking and that they would meet sign requirement size for an R-2 zone.

Motion made by M. Cornelius to approve the requested use variance with the following conditions: All signage (if any) shall meet R-2 zone requirement dimensions. When property is no longer owned by the Grippaldi family it shall revert back to an R-2 use. Paving or other City Code approved solid surface shall be in place within 2 years from the date of purchase for parking. A stockade style fence shall be erected on the north and south side property boundaries.

G. Cleveland seconded the motion.

Motion Approved: 4 ayes; 0 nays. Ayes All.

Ayes – J. Wright, G. Cleveland, R. Shackelton, M. Cornelius

III Approval of minutes:

The minutes of October 1, 2012 were approved on a motion made by R. Shackelton. Seconded by G. Cleveland. Ayes All. Carried.

V Adjournment:

There being no further discussion, the meeting was adjourned at 8:52pm on a motion made by G. Cleveland. Seconded by R. Shackelton. Ayes All. Carried.