

ZONING BOARD OF APPEALS  
VILLAGE OF BUCHANAN  
OCTOBER 7, 2009

PRESENT: Kathy Kane, Chairwoman  
Marco Pinque  
Mike Chirico  
Angelo Iacomini  
Ed Mevec  
Barbara Miller, Building Inspector  
Stephanie Porteus, Village Attorney  
Rosemary Martin, Secretary

OTHERS: Ed Gemmola  
Jorge Hernandez  
Atefa Azizi  
Robert Hilpert  
Eileen Absenger  
Don Zern

CALL TO ORDER:

Chairwoman Kathy Kane informed all attending of the fire regulations and led them in the Pledge of Allegiance. She called the regular meeting of the Zoning Board of Appeals to order at 7:00 p.m. on October 7, 2009.

APPROVAL OF MINUTES:

A motion was made by Mike Chirico, seconded by Angelo Iacomini, with all in favor to approve the minutes of August 12, 2009 as written. A motion was made by Ed Mevec, seconded by Mike Chirico, with all in favor to approve the minutes of September 9, 2009 with one correction to page 1, Cal. No. 02-09-BZ, fifth sentence, change "33.68 feet" to "13, 368 square feet."

CAL NO. 02-09-BZ: PUBLIC HEARING FOR VARIANCE APPLICATION FOR PROPERTY AT 175 HENRY STREET. (AZIZI)

Jorge Hernandez and Atefa Azizi were present for the public hearing for property at 175 Henry Street. Mr. Hernandez advised they are renovating the first floor and adding to the second floor. They are legalizing existing conditions. It was noted that the applicant did not have the signed certified cards as proof of mailing. Mr. Hernandez stated the notices of public hearing were mailed on September 29, 2009, less than 10 days ago.

Marco Pinque, seconded by Angelo Iacomini, with all in favor, made a motion to open the hearing. Chairwoman Kane asked if there was anyone present to speak for or against the application. No one was present for this application. She asked if there were any questions or comments from the Board members. Chairwoman Kane read the area variances required for this property. These are all preexisting nonconforming conditions and the variances will bring them into compliance. The footprint will remain the same.

The variances required are:

- A front yard area variance for the existing garage from 30 feet to 2.8 feet.
- A front yard area variance for the existing staircase from 30 feet to 0 feet.
- A right side yard area variance from 10 feet to 7 feet for the existing structure.

Mr. Hernandez noted the height required for the addition is 23.6 feet and the lot coverage is 13,368 square feet including the patio, driveway and shed. The lot coverage is within the 30% maximum required by the zoning code.

Angelo Iacomini, seconded by Ed Mevec, with all in favor, made a motion to adjourn the public hearing until November 4, 2009. The applicant was advised to submit the certified cards or a print out from the post office as proof of mailing. A notice of hearing sign was posted on the property.

The Zoning Board would like to change the date of the November meeting from November 11, 2009 (Veteran's Day) to November 4, 2009 if the Boardroom is available.

CAL NO. 03-09-BZ: PUBLIC HEARING FOR VARIANCE APPLICATION FOR PROPERTY AT 223 GALLAGHER STREET. (DRIVER)

Scott and Melissa Driver were not present at the meeting for a public hearing for variance for an addition to their existing house at 223 Gallagher Street. A signed decision and order exists for the proposed front porch dated June 13, 2007. The original decision and order granted three variances with conditions. The area variances granted were: a front yard variance from 30 feet to 4 feet for the new porch stairs; a front yard variance from 30 feet to 8 feet for the new porch; and a side yard variance from 10 feet to 5 feet for the new porch.

The public notice was in the newspaper; however, the applicants did not send the notices of hearing in time.

Mike Chirico, seconded by Ed Mevec, with all in favor, opened the public hearing on a motion. Since proper notification was not made, on a motion by Marco Pinque, seconded by Ed Mevec, with all in favor, the public hearing was adjourned until November 4, 2009.

Two variances are required:

- A rear yard area variance for the shed from 4 feet down to 3.2 feet.
- A side yard area variance from 10 feet to 5 feet.

CAL NO. 04-09-BZ: PRELIMINARY SUBMISSION FOR VARIANCE FOR PROPERTY AT 3208 ALBANY POST ROAD. (SARMIENTO/GUZMAN)

Ed Gemmola architect for the applicants was present at the meeting. Mr. Gemmola was involved in the design of the auto body shop next door. A few years ago there were issues with the house. Mr. Gemmola stated when the applicants purchased the property there was a pool. Mr. Sarmiento started to do renovations at the rear of the property and he was stopped.

Building Inspector Miller asked Mr. Gemmola to get involved. Mr. Gemmola displayed photographs of the front and rear of the house. The driveway was widened. There is a deck in the rear of the property. This is a residential use in a commercial zone. Mr. Gemmola's firm went to the site but they are not surveyors. The pool and outbuilding were on Con Edison property and Mr. Sarmiento pulled them onto his property. Mr. Gemmola advised the applicant has put a lot of money into improvements and has enhanced the property.

Mr. Gemmola noted Mr. Sarmiento has attempted to correct some issues on the auto body side. However, there are other issues, lot area and lot width. Building Inspector Miller stated Mr. Sarmiento has modified the building and has violated zoning. Mr. Gemmola stated they are here to start a process to correct the violations.

Building Inspector Miller could not issue permits because it would be an expansion of a nonconforming use. On a day off she noted a truck putting down sub grade and issued a stop work order. When she returned at four o'clock workers were spreading asphalt and she issued a second stop work order. Detective Piehler came to the site and issued a ticket. Building Inspector Miller left and two hours later there was a finished driveway. The driveway had been paved and top coated. She noted the pool was moved closer to the house. The pool doesn't have a permit.

Chairwoman Kane stated they have applied for a lot coverage variance. They definitely need a survey for the pool, sheds, etc. Mr. Gemmola just depicted what he found at the property. The lot coverage is 96.3%. Chairwoman Kane stated the Zoning Board would have to bring him into compliance not only on the lot coverage but the other issues. A survey of the property is required.

Building Inspector Miller stated Con Edison made several site visits before a certificate of occupancy was issued for the auto body shop. There was an issue with a cell tower and Con Edison stated it was not their property. Building Inspector Miller stated that several years ago she issued stop work orders because Mr. Sarmiento was raising the roof. Four days later he ignored the stop work order. She issued a second stop work order and they went ahead and did it anyway.

This will be carried over as a preliminary submission for the next meeting.

CAL NO. 05-09-BZ: INTERPRETATION OF USE FOR PROPERTY AT 260 WESTCHESTER AVENUE. (PEBWORDH)

Robert Hilpert, attorney in Croton, was present representing Claire Pebworth who is the owner of the building. He stated United Wenco and Tim Thorne auto parts used the building in the past. They are before the Board because a prospective tenant, Marble Space Inc., Ilhan Ulan, President is interested in having a retail marble business and showroom fabricating and displaying custom designed countertops. They will cut marble on the premises using an underwater saw. Mr. Hilpert had an earlier site plan showing United Wenco's previous use of the property for sheet metal fabrication.

Chairwoman Kane asked if this would be a retail use. She was advised it would be. Mr. Hilpert explained the use of the business. Building Inspector Miller suggested that they appear before the Zoning Board for an interpretation of the use. This is in a C-1 zone. Sheet metal fabrication required a special use permit. It was noted that United Wenco appeared before the Zoning Board for a change in use in 1990. Chairwoman Kane advised that the Planning Board grants special permits. The special permit for United Wenco was obtained in 1995.

Mary Ingenito of 253 Westchester Avenue was concerned about ventilation and where the dust would go. She was advised the use of the water saw will eliminate dust.

The Zoning Board would have to research the application.

ADJOURNMENT:

Mike Chirico, seconded by Marco Pinque, with all in favor, made a motion to adjourn the meeting at 8:00 p.m. The next meeting will be November 4, 2009.

Respectfully submitted,

Rosemary Martin, Secretary