

Meeting Date: September 22, 2021

Present: Michael Keupp, Zoning Board of Appeals Chairman
Ann Hardeman, Board Member
Mike Mersand, Board Member
Nicholas Vorolieff, Board Member
Tom Zarecki, Board Member

Also Present: Jonathan Bardavid, Village Council
Caren LoBrutto, Village Planner
Lauri Taylor, Mayor
Curt Johnson, Architect for Applicant
Pawling Commons

On, **Wednesday, September 22nd, 2021 at 7:00 PM**, the **Zoning Board of Appeals** met in the meeting room at the Village Hall on 9 Memorial Avenue, Pawling NY. The Meeting was called to order by Vivian Nikolatos, Secretary, and began with roll call as indicated above and The Pledge of Allegiance.

Minutes

Chairman Keupp motioned to Approve July 28, 2021 ZBA Minutes. Member Mike Mersand seconded the motion. All were in favor

22 Walnut Street

Carl and Francis Traina

Area Variance from Chapter 98 Schedule C – Area and Bulk Schedule for R3 Zoning District

- Minimum front yard setback of 25 feet required, 8 feet proposed, Variance of 17 feet requested.
- Minimum side yard setback of 15 feet required, 7 feet proposed, Variance of 8 feet requested.
- Aggregate side yard setback of 40 feet required, 34 feet proposed, Variance of 6 feet requested.

Curt Johnson, representing the applicants, confirmed that building permits were obtained for the shed and furnished copies of such permits. The Building Permit and a copy of the updated site plan map that includes the shed are on file at the Village Hall. Mr. Johnson mentioned that visibility into the neighbor's property would be blocked by the shed. He said that the Applicant's

will plant two or three evergreen shrubs on the side of the shed to ensure privacy for the neighboring home.

Chairman Keupp motioned to reopen the Public Hearing. Member Nicholas Vorolieff seconded the motion. All were in Favor.

Chairman Keupp mentioned that when you live in the Village you have to expect that the houses will be close each other.

Ms. Daniels said she is still concerned with the shrubbery and seeing the shed.

Trustee Earl Slocum mentioned the house next door to him is exactly 12 inches from his property line.

Chairman Keupp motioned to close the Public Hearing. Member Nicholas Vorolieff seconded the motion. All were in Favor.

Chairman Keupp motioned to Grant the Three Variances as stated above. Member Nicholas Vorolieff seconded the motion. All were in Favor.

Verizon Escrow Release

Michael Keupp motioned to Release Verizon Escrow in the amount of \$5,208.56. Member Nicholas Vorolieff seconded the motion. All were in favor.

Set Escrow for Pawling Commons

Michael Keupp motioned to Set Escrow for Pawling Commons in the amount of \$10,000.00. Member Nicholas Vorolieff seconded the motion. All were in favor.

Chairman Keupp motioned to go into Executive Session. Member Nicholas Vorolieff seconded the motion. All were in Favor.

Chairman Keupp motioned to Close Executive Session. Member Mike Mersand seconded the motion. All were in Favor.

Pawling Commons 63 East Main Street Variance for the Third Building

Chairman Keupp said that he's been on the ZBA for over 22 years and we've had more building a development in the last couple of years then we've had in the previous 20 years. There's a lot of interest in the Village. Mr. Johnson provided him with some information from Claudia Driscal of

McGrath Realty on rentals in a recently renovated building on Elm Street. All two bedroom apartments renting for \$1,850.00 per month and it's fully occupied and this can be said for several other apartment buildings in the Village. Chairman Keupp explained that what we have right now is a large 4.2 acre unsightly lot. The AG closed many years ago and the lot has been a deteriorating eyesore ever since. Mr. Keupp then read the responses to the five variance questions as follows:

- That the granting of the variance will not result the undesirable change in character of the neighborhood or detriment to nearby properties?
 - Certainly there will be a change in the character of the neighborhood, having another building there, but I think the change could be seen as benefiting the neighborhood by bringing new life to the area and improving the vacant lot. As pointed out in the last Public Hearing, there's nothing wrong with brining new consumers into the Village.
- Can the benefit sought cannot be achieved by some other feasible method?
 - No, it can't.
- Is the variance substantial?
 - That's a very subjective issue. It's a large lot, 4.2 acres. Putting a building there you could say, yes, it is maybe it's substantial. But considering the size of the lot, I don't really think it is that substantial.
- Will there be an adverse effect or impact on the physical environmental conditions in the neighborhood or district?
 - It has been demonstrated that there is a need for apartments in the Village and there are only a few places in the Village in the B1 Zoning District where you can put a substantial number of apartments up. It has been argued by adding people to the Village would result in the need for more police and fire protection. That's probably true, at some point that would need to be increased. At what point do you say you can't move into the Village. I think that if there is a need for apartments, we need to look at that and try to solve the problem. If we can feasibly put apartments or houses, I think we should look for ways to do it. Hopefully if enough people more here, it will improve the business district possibly adding more stores, restaurants, etc. I don't think it's going to be that bad an impact on the district.
- Was it self-created?
 - Yes, the previous approval had been granted for just a one story building on the site but there's really no way to do this without granting this variance.

Chairman Keupp asserted that while he is in favor of approving the project. He does have a concern about the size of the building. The proposed four stories would in my opinion be too large for the site and would tower over surrounding homes. Stating that he is in favor of

granting the variance but approving the building as being no more than three stories. He believes this will make an asset to the Village.

Member Nicholas Vorolieff feels similarly on many points. Asserting that three stories is a much better graduated movement back down to residential from higher buildings. Mr. Voroleiff said that plantings and lighting would be a definite requirement in my opinion. In considering the AG building, he wants to make sure that people on Sunset do not lose the value of their homes and the joy in living those homes and wants to make sure that we don't have headlights shining in. I know you've talked about redirecting traffic in different ways that would definitely be important to me. It is somewhat substantial having the third building but I think that that's ok with me. I think that there are benefits of having more residential spaces in the Village as was mentioned earlier.

Member Mike Mersand commented that he pretty much agree with what's been relayed. He said the people on Sunset were really the concern and who we've heard from the most from when the Board started taking comments from the Public earlier in the year. Some of the concerns that was brought up included privacy screening, redirecting traffic, etc.

Member Tom Zarecki commented that although four stories could look work, it's just that there's too much pull from the general community that three stories would be a little more receptive across the board.

Member Ann Hardeman agrees with having a third building on the site, with the fact that it's not very attractive right now and understands that more housing in the Village is needed and also understand that more housing will attract more business, which is a good thing. Member Hardemann is not in agreement with a four story building I would even prefer to see more like a two story building but understands that may not be feasible. Ms. Hardemann states that she does support the variance with limiting the building to three stories or less.

Mr. Johnson said as of right, we could build of 365,000 square feet on that site, four stories with one building and not come before this Board. We wouldn't need a variance for the third building. What we're trying to do instead building this big blocky building on the site which is maybe more appropriate in the Village core here is to actually kind of loosen that up a little bit and separate that square footage. We're only at 85,000 square feet total so we're way under what could be built on that site. We have four acres, it's a huge site comparatively to the rest of the lots in the Village. So what we've created, we have two existing buildings there. We know what they are and we're creating this third building much smaller than what the total aggregate could be for one large building as of right, full four stories. What we've also done with the Planning Board discussion before we came to you is we were approved in 2018 for the full four story building there what we did with that is we actually reduced the elevation along East Main Street and the opposite side there to bring that down almost to a 3 ½ story building so we're only coming up with a five foot knee wall on the fourth floor and then putting the rest under the room. So in technicality it's like a 3 ½ story building and can make that work with the unit count and the economic viability of putting elevators in and things like that. Also we reached out to

the tax accessor when we first started this project and just basically the tax implication on this is going to add a lot of money into the Village and hopefully build up the commercial as well. Again, we've made the concession working with the Planning Board with building height and taking into account comments made by them and this Board also to reduce that height tot 3 ½ stories, we can still get the unit count in there and make that work. So the Board might consider because really to make it work, we need to get the unit count in that building, which is 20 units.

Board Member Nicholas Vorolieff asserted that what he hears most as a ZBA Board Member is complaints about the height of the new buildings that are going. When people get in my ear that's what I hear all the time. They don't like that the height has been raised by the Local Law in 2018. They think it's changing the character of the Village. I tend to agree al lot of these larger buildings look out of place. I would feel much more comfortable with a lower height building of no more three stories and I know that will not get the complaints and that is what I hear all the time.

Mr. Johnson said a 3 ½ story building which is this building here which is currently being proposed is what was on the books in the Zone for B1 District since 1994 so that what changed in 2018 so this building here basically would be in compliance.

Member Vorolieff said we understand but you're asking for a third building on the lot which is not at all in compliance.

Mr. Johnson said, Right which is much smaller than what could be built as a four story building and not come before this Board. We could build a 365,000 square foot four story building on that site in one building and be done with it. I mean with Planning Board approval, obviously, but it doesn't need a Variance. So we are less than a quarter of what could be built on that site and creating these two existing buildings and one smaller building on that site. It breaks it down.

Chairman Keupp asked are you saying if we approve the three stories you're going to go with the 3 ½ story route with the Planning Board.

Mr. Johnson said no we can't do that we're asking for the Variance from this Board to allow a third building on the lot. If that gets granted then we can go back to the Planning Board and work through them with a Special Permit but what I'm saying we have worked with them with a 3 ½ story to bring the scale down, get the unit count that was approved back 2018 and a building permit was issued on this building here that we should have started in 2019 when we got the permit but didn't and that expired but this four story building could be there right now. It was all approved, building permit applied and granted.

Member Vorolieff said it's too high next to the residences in the next property going up East Main Street.

Member Tom Zarecki said I think the tough part is coming to the Zoning Board for the Variances that we have to respect that the community. There are other avenues that you've explored to

get this project built the way that you want and to get the counts that you want but as our responsibility to preserve the integrity of the Board and what we stand for the community is that buffer there. Are there other routes to get that project built in this Village but as our responsibility is kind of where we are.

The 2018 law change basically was to eliminate the ambiguity what is 3 ½ stories. So it allowed it to go to four stories because no one really knew what a half story was so the whole intent of the change in 2018 was to allow a full four stories. So we're actually going back prior to 2018 in creating a 3 ½ story building. I understand we need the Variance for the third building but understand the overall development we're proposing is so much less than what would be allowed per the code right now without the Zoning Variance.

Chairman Keupp noted that he is still getting complaints about 33 East Main Street that the building is too big. It's cutting out sunlight, it's monstrous. Whether its 3 ½ or four stories people look at that, they see four stories. It's in the B1 District but it's right on edge of the residential area. That's why we're trying to preserve that residential area and not make it such shock.

Mr. Casola said, if it doesn't work, we'll redesign it and come back. What changed in the Zoning laws from 2018 until now?

Michael Keupp replied nobody came to us in 2018.

Mr. Casola, said we did.

Curt Johnson said it was missed.

Jonathan Bardavid said to be fair and honest, you needed a Variance in 2018. It got approved and you got as far as getting a building permit but ultimately (in audible people talking over each other.)

Mr. Casola said, it doesn't pay to put an elevator and to build the building and get 15 units.

Addressing Mr. Casola, Mr. Johnson asked if he wanted to table this now.

Mr. Casola said we even made a concession to go to 3 ½. We changed plans, we said we could do it. We redesigned it at 3 ½, kept our count. We didn't get our ceiling heights the way we wanted but we thought it would soften up the neighborhood. Now it needs to be redesigned and get just one big building, three stories.

Mr. Bardavid asserted that if they ask to table this opposed to making a decision you would need to waive any time limits under the Code.

Mr. Johnson asked if this Board makes decision at three stories is there any recourse from that?

Mr. Bardavid said not at the Board level.

Mr. Casola said in speaking to their council we feel that our original building is still valid. We started the project in 2018. We spent over \$100,000.00 renovating the building taking down the poles so we'll have to see where this goes. It's not going to work at 15 units.

Mr. Bardavid said I think you've gotten point if this Board votes tonight you understand what the consensus is. If you want to ask them to table it, that's choice. I'm just going to ask if you do so that you agree to waive any time and ultimately the Board may decide to vote tonight. I just want to lay out the options.

The applicant decided to table the decision and waive the extension on time.

Member Vorolieff made a Motion to table making the decision tonight and that we no longer have time constraints based on the closing of the Public Hearing for when has to be made. The motion was seconded by Member Tom Zarecki. With no comments, the Board voted unanimously in favor.

Mr. Bardavid informed Mr. Johnson and the applicant that any changes made have to go back to the Planning Board before coming back to the ZBA.

Mr. Johnson and the Applicant agreed to waive time on the other questions before the board tonight since they can't be answered without resolution on this matter. He informed the Board That he will be available for any information that Board might need, any information or studies let him know and he'll make sure they get it to help them deliberate.

Adjournment

Chairman Keupp made a Motion to adjourn until the next meeting on October 27th, 2021. The Motion was seconded by Member Tom Zarecki. All were in favor.

Submitted by:

Vivian Nikolatos, Secretary