

**A Zoning Board of Appeals Meeting took place on Wednesday, January 20, 2021, at 7:00 P.M. at the Village Hall, 9 Fairlawn Drive, Washingtonville, New York and on Zoom.**

**PRESENT:**

**Chairperson Maureen DeVinko; Ms. Denni Lozza; Mr. Jim Kiernan; Mr. Merald Drayton; Mr. Steven Presser.**

**ALSO PRESENT:**

**Attorney Stephanie Tunic-Midler; Attorney Christopher Kleister, Building and Code Inspector John Terry.**

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**Chairperson Maureen DeVinko led the Pledge of Allegiance to the Flag.**

**DISCUSSION OF APPLICATION – 5 LOCUST ST – SANTER FITNESS:**

**Chairperson Maureen DeVinko announces on behalf of the Village of Washingtonville Zoning Board of Appeals:**

**Please take notice that, the Zoning Board of Appeals of the Village of Washingtonville, Orange County, New York will hold a Public Hearing on the Application of John Dillon and J & J Industrial LLC to convert a single parcel located at 5 Locust Street, Washingtonville, New York, 10992, further defined as Section 120-1-1. Two (2) separate parcels requiring the need for several variances.**

**The Applicant is seeking the following approvals from the Zoning Board of Appeals:**

- (1) Section 315-1A Permitting the required square foot lot size to be reduced from 40,000 square feet to 22,363 square feet for the proposed Lot One (1).**
- (2) A Lot Area Variance pursuant to Section 315-10A, permitting the required square foot lot size to be reduced from 40,000 square feet to 27,618 square feet for the proposed Lot Two (2).**
- (3) Side yard variances on Lot One (1) pursuant to Section 315-10F permitting the side yards to be a combined 33.4 feet instead of the 50 feet combined total four (4) side yard variances on Lot Two (2)**
- (4) Pursuant to 315-10F permitting the side yards to be combined 38 feet instead of the required 50 feet combined total.**
- (5) A Variance for the corner side yard on Lot Two (2) permitting it to be 10 feet instead of the required 25 feet minimum.**

**The Public Hearing will be held on the 20<sup>th</sup> day of January 2021 at 7:00 P.M. at the Village Hall Meeting Room at 9 Fairlawn Drive, Washingtonville New York, 10992 at which time all interested persons will be given an opportunity to be heard.**

**DISCUSSION OF APPLICATION – 5 LOCUST ST – SANTER FITNESS (CONTINUED):**

Attorney Christopher Kleister announces that for the record the Zoning Board received two (2) packages from the applicant. Marking the first package, their application, as Exhibit One (1). This was filed with the Village of Washingtonville when the application was submitted. Received tonight was a Follow-up Package from the Applicant. We are going to mark it Exhibit Two (2) to indicate it was received by the Village on October 23, 2020.

Engineer Nick Caesar is representing the applicant, Mr. Dillon, for Santer Fitness. He mentions that the request is an existing lot; there is an existing site plan approved in 2014. The only action we are requesting is to divide lot into two (2) parcels, separating the two (2) buildings function on that is owners of Santer Fitness. The Plans were approved on July 17, 2014. "Whereas, applicant proposes to establish or continue the following information on this property". Proposing to cut (one) 1 parcel along the line, resulting in two (2) parcels. 40,000 sq ft. and 40981 sq ft; variance required in this action; max is 38 ft no side yard validation; 20x2550 variance for lot 2; cornering lot as required are 40,000 sq ft to reduce from 22,363 & side yard validation just as a result of no ability to get that side yard.

Merald Drayton adds that the entire property is not for sale, Mr. Dylan John is selling one (1) lot, keeping their lot and splitting them into two (2) lots, the application is just for a lot line change.

Merald Drayton suggests to Board Members that we need to discuss and suggest to the applicant that they come back next month.

Attorney Christopher Kleister mentions that the Board can get additional documentation without site. We will have tentative date to make decision. Santer Fitness is buying building from Current Owner, John Dillon. Santer wants to buy and in order for them to purchase, they have to split the property. We will make a tentative date, February 3. If it gets resolved in a week, we will notify the applicant.

**RESOLUTION – OPENING OF PUBLIC HEARING – 5 LOCUST STREET:**

Chairperson Maureen DeVinko made a motion, seconded by Denni Lozza to approve the Opening of a Public Hearing on the Application of John Dillon and J & J Industrial LLC to convert a single parcel located at 5 Locust Street, Washingtonville, New York, 10992. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.

**OPEN PUBLIC HEARING – 5 LOCUST STREET:**

No Public Comments.

**RESOLUTION – CLOSURE OF PUBLIC HEARING – 5 LOCUST STREET:**

Chairperson Maureen DeVinko made a motion, seconded by Denni Lozza for the Closing of the Public Hearing regarding the Application of John Dillon and J & J Industrial LLC to convert a single parcel located at 5 Locust Street, Washingtonville, New York, 10992. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.

**RESOLUTION – ADJOURNMENT OF MEETING – 5 LOCUST STREET:**

Chairperson Maureen DeVinko made a motion, seconded by Merald Drayton to approve the adjournment this Zoning Board of Appeals Meeting regarding the Application of John Dillon and J & J Industrial LLC to convert a single parcel located at 5 Locust Street and to continue the discussion of this matter at the next meeting on February 3, 2021. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.

**DISCUSSION OF APPLICATION – 1 NICOLL STREET – 2 FAMILY RESIDENCE:**

Chairperson Maureen DeVinko announced on behalf of the Washingtonville Zoning Board of Appeals: The notice is hereby given, that a Public Hearing will be held before the Zoning Board of Appeals of the Village of Washingtonville, New York on the 20<sup>th</sup> day of January 2021 7:00 P.M. at the Washingtonville Village Hall located at 9 Fairlawn Drive, Washingtonville, New York, 10992 to consider the application for the interpretation of the Zoning Code. Five (5) Area Variances pertaining to a two (2) family residence. Property is located at 1 Nicoll Street and is identified in the Village of Washingtonville Tax Maps 114-1-5. Situated in the R100 Zoning District, a complete copy of the application is available for public review in the Village of Washingtonville Building Department. Any interested persons may attend this public hearing or submit their comments in writing concerning this application.

The Applicant's Attorney proceeds to announce that he has the proof of the publication for the file. I will provide all of the notice requirements that were compiled with to the Honorable Chairperson and Board Members. April of 2020, the Building Inspector issued a violation against 1 Nicoll Street LLC for operating a two (2) bedroom in a One (1) Bedroom R100 Zone. In June, we submitted an application to the ZBA asking for special exception use. They applied to the Planning Board in August for SE Use to operate Two (2) bedrooms. Two (2) Family in One (1) Family R100 Zone. Code Section 315-11F states that "Any permitted Use in the RA District is permitted as a SE Use in the R100 District". The RA District for the RA District a Two (2) Family Dwelling is allowed in a SE Use in the RA District as requirements as a Front-End Requirements of 220 Feet and then it also doubles the side yard requirements for the ZBA Numbers. Ours is at 32.2 in RA we would need to have a 100 Ft-Setback and then in the R100 we would need an 80 Feet and then the frontage requirement asked for 315-11F.

Chairperson Maureen DeVinko questions the applicant if 1 Nicoll Street is his primary residence or if is this for a family?

The Applicant responds that it is a two (2) Family House.

Chairperson Maureen Devinko adds that when the applicant purchased the home it was classified as a One (1) Family home.

The Applicant's Attorney mentions that on the tax records for the village as being a two (2) family dwelling, and it is currently still listed as that as I outlined that in my application.

Attorney Stephanie Tunic mentions that when you look up on Orange County, the property is shown as a two (2) family house, but for purposes of the Village records, this property is a single-family home. The applicant may have purchased this as a two (2) family home but that is because there was a special agreement between the Village and the previous owner which there is an affidavit here provided to the Board Members. Once their ownership was extinguished, the property owners had no right.

**DISCUSSION OF APPLICATION – 1 NICOLL STREET – 2 FAMILY RESIDENCE (CONTINUED):**

Chairperson Maureen Devinko explains that with a mother-daughter, there are special requests that are granted when it is a family member, what happens is that every year the building inspector goes to the house you must prove that it is a family member you sign a document that it is your mother, your father... I don't believe it was ever a two (2) family.

The Applicant's Attorney mentions his client did make entries to the town asking for information about this before purchasing the property.

Attorney Stephanie Tunic mentions that he was told specifically that this was not allowed in the two (2) family home. The Building Inspector's Assistant met with a Representative. Prior to purchasing the home, he did come and inspect building department records and was explained that this was not a two (2) family home to be used.

The Applicant's Attorney mentions it was not conveyed to his client that this was a one (1) family home and that it could not be used as a two (2) family home.

Attorney Stephanie Tunic mentions that however the home was previously assessed was specific to that previous owner.

The Applicant's Attorney clarifies that according to the special exception use comes from the planning board, applicant went to other planning board, made an application to them to allow them to use it as a two (2) family, they referred you to the zoning board. In the R100 zone, if you build a house in the Village Code there are setbacks. In the RA Zone, there are different setbacks. Property was bought July 2019.

Attorney Stephanie Tunic mentions that the code comes through an RA use, it specifically references the News Code Section 315-10.

The Applicant's Attorney reiterates that the area variance is a self-created issue is not determining the factor in weighing whether or not an area variance is approved. That's the only issue that has been stressed. Our argument is that it is not and our argument is that even beyond that If you come to determination that it is all other factors weigh so heavily in favor of our client.

Chairperson Maureen DeVinko adds that it is the Zoning Board's job to make sure properties are following the Village Code.

Attorney Christopher Kleister announces that this application will be discussed more on the February 10, 2021, Zoning Board of Appeals Meeting Date. No decisions made tonight. Need any additional documentation sent to us.

**RESOLUTION – OPENING OF PUBLIC HEARING – 1 NICOLL STREET:**

Chairperson Maureen DeVinko made a motion, seconded by Denni Lozza to open a Public Hearing regarding the application of 1 Nicoll Street for interpretation of the Zoning Code and the Five (5) Area Variances pertaining to a Two (2) family residence. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.

**OPEN PUBLIC HEARING – 1 NICOLL STREET:**

**No Public Comments.**

**ZONING BOARD OF APPEALS MEETING:**

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**JANUARY 20, 2021**

**RESOLUTION – CLOSURE OF PUBLIC HEARING – 1 NICOLL STREET:**

**Chairperson Maureen DeVinko made a motion, seconded by Denni Lozza for the approval to close the Public Hearing regarding the application of 1 Nicoll Street for interpretation of the Zoning Code and the Five (5) Area Variances pertaining to a Two (2) family residence. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.**

**ADJOURNMENT:**

**Chairperson Maureen DeVinko made a motion, seconded by Denni Lozza for the approval of the adjournment of the Zoning Board of Appeals Meeting that was held on January 20, 2021. Said resolution was passed by a unanimous vote of the Zoning Board of Appeals. 5 Ayes, 0 Nays, 0 Abstentions.**

**TRANSCRIPTION:**

**SOPHIA FOLEY**

**RESPECTFULLY SUBMITTED,**

**SOPHIA FOLEY**

**CLERICAL ASSISTANT**