

VILLAGE OF SPRINGVILLE  
MINUTES OF THE MEETING OF ZONING BOARD OF APPEALS

April 10, 2019

7:00 P.M.

A meeting of the Zoning Board of Appeals of the Village of Springville was held at the Municipal Building, 65 Franklin Street, Springville, New York at the above date and time.

Present were:

Chairman:	Joe Wolniewicz
Members:	Timothy O'Neal Kate Moody Jamie Raynor Kimberly Krzemien
Also Present:	Mike Kaleta, CEO/Building Inspector Alan Chamberlin, Trustee Andrew Romanowski Ralph Skinner Jenny Skinner Erin Alonzo
Clerk:	Kellie Grube

Chairman Wolniewicz called the meeting to order at 7:00 p.m. to hear the petition of Ralph and Jenny Skinner, 63 Prospect Ave., Springville, New York, **File #8711** for an Area Variance.

Due to the applicant's property being located within a R-8.5 Zoning District, the applicable section for File #8711 of the Village Code is **§ 200 Attachment 4, Chapter 200 Attachment 4, side yard setback 16'. Side minimum for one is 10', existing lot, house had a fire and was demolished. Only has a total 13.82' for side yard setback at 65' from edge of ROW.**

At 7:01 pm Chairman Wolniewicz opened the Public Hearing.

Mr. Andrew Romanowski of Alliance Homes came up on behalf of the applicants. Mr. Romanowski explained that in order to get the house that the applicants really want, they are going to be within the the minimum setback slightly. This lot previously had a house on it that due to a fire had to be demolished. Mr. Romanowski stated that the Skinners would like to construct a single family home with side yard setbacks of 6'0 and 7.82'. Per the Code of the Village of Springville the minimum in a R-8.5 is 16', the applicants are at 13.82'.

Chairman Wolniewicz closed the Public Hearing to go into Board discussion.

After some discussion, Chairman Wolniewicz declared the SEQR for File #8649 a Type II requiring no further action; therefore a negative declaration was determined.

At this time, the Zoning Board of Appeals went over the factors considered in their decision:

**FACTORS CONSIDERED:**

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes \_\_\_ No x(5)
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes x(4) No x(1)
3. Whether the requested variance is substantial: Yes \_\_\_ No x(5)
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes \_\_\_ No x(5)
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance: Yes x(5) No \_\_\_\_\_

**DETERMINATION OF THE ZONING BOARD of APPEALS BASED ON THE ABOVE FACTORS:**

The ZBA, after taking into consideration the above five factors, finds that variances for: Setback from Section 200 Attachment 4 of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The benefit to the applicant DOES outweigh the detriment to the neighborhood or community. With keeping in mind that the Variance is within the character of the neighborhood and doesn't impact the environment, the variance request is approved.

**RECORD OF VOTE**

MEMBER NAME	AYE	NAY	NO VOTE
JOE WOLNIEWICZ	<u>  x  </u>	_____	_____
TIMOTHY O'NEAL	<u>  x  </u>	_____	_____
KATE MOODY	<u>  x  </u>	_____	_____
JAMIE RAYNOR	<u>  x  </u>	_____	_____
KIMBERLY KRZMIEN	<u>  x  </u>	_____	_____

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Next on the agenda this evening is the petition of Alowit Companies LLC, 210 W. Main St., Springville, New York, **File #8724**, for a Use Variance.

The requirement for which the Variance is requested is that for this property the Zoning District is B-1 and it only permits by Special Exception residential over first floor nonresidential. The applicants are requesting possibly 2 residential units on the first floor to the rear of nonresidential.

The permitted uses for this property are listed in **Chapter 200 Attachment 2 of the Code of the Village of Springville**.

Chairman Wolniewicz asked the applicant to come up and explain to the Zoning Board what she needed a Use Variance for.

Applicant Erin Alfonzo came up and explained that her and her husband had purchased this property some years ago with the intention of opening a restaurant in the first floor commercial space. Ms. Alfonzo went on to say that due to the recent past and current market regarding restaurants closing, they didn't feel that they could make a go of a restaurant. What they are hoping to do in lieu of the restaurant is to add a couple of apartments to the first floor so they can rent them out and hopefully recoup some of their investment. The West Main Street portion of the first floor would still remain as commercial use.

After some more discussion, Chairman Wolniewicz closed the hearing to go into the Use Variance Findings and Decision test. No Use Variance will be granted without a showing by the applicant that the applicable zoning regulations have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit.

#### FACTORS CONSIDERED:

1. The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial.
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood).
3. The requested use variance, if granted, will not alter the essential character of the neighborhood.
4. The alleged hardship has been self-created.

At this time the Zoning Board of Appeals does not feel that they have enough answers to be able to complete the Findings and Decision test and therefore cannot vote on the applicant's Use Variance request. The Board offered some suggestions and ideas of what they will need in order to make a proper decision. Therefore the Public Hearing for **application #8724** is tabled until a

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future meeting, giving the applicant the opportunity to compile and provide the Board what they will need in order to make a decision.

With there being no other Public Hearings this evening, Chairman Wolniewicz asked the Members if there were any changes or concerns with the December 12, 2018 meeting minutes.

With there being none, Chairman Wolniewicz asked for a motion to approve the minutes. Member Tim O'Neal made the motion, seconded by Member Jeremy Raynor. All in favor, none opposed.

At 8:13 p.m., Chairman Wolniewicz made a motion to adjourn the meeting. All in favor, none opposed. Meeting adjourned.

Respectfully Submitted,

Kellie R. Grube