

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

November 2, 2016

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:

Chairwoman:	Sue Owen (absent)
Members:	Christine Greene Joe Wolniewicz Timothy O'Neal David Guadagna
Also Present:	Mike Kaleta, CEO/Building Inspector Tammy Fisher, Applicant David Witczak, Applicant Mark Mazur Roger Keener Matthew Mayer Andrea Domst
Clerk:	Kellie Grube

Zoning Board Member Joe Wolniewicz called the meeting to order at 7:04 p.m. for a Public Hearing this evening. This Public Hearing is to hear the petition of Kyle and Tammy Fisher and Dave Witczak, Springville, New York, **File #7943** for an application for a Use Variance for additional apartments. The applicants own parcel number 335.20-4-2 at 119 E. Main Street that is comprised of 1.5 acres. This site is located within a R8-5 Residential Zoning District and does not permit multiple family homes. This is considered a nonconforming use under Article IX.

Applicable section for File #7943 of the Village Code is Section 200, Attachment 1.  
Prohibited use in R-8.5 Residence Districts.

At 7:04 pm Member Joe Wolniewicz opened the Public Hearing.

Notification for the Town of Concord and Erie County Planning was not required. All other public notifications were completed and this Public Hearing announcement was published in the Springville Times.

Member Wolniewicz asked the applicants to explain what they wanted to do and why they were requesting a variance. Mr. Witczak stated that in the fall of 2015 they purchased the run down property at 119 E. Main St. Mr. Witczak said that their intention is to completely rehab the property, renting it out, and put it back on the tax rolls for the Village of Springville. During the

demo part of the rehab, they found that they were unable to salvage the garage portion of the rear building that also contained two rental units. It was at that point that they saw the potential to create additional units. The applicants feel that with the lot being so large (1.5 acres), the lot could handle the additional parking that would be needed to accommodate the extra cars generated from the additional units. Mr. Witczak went on to say that the rehab that they are under taking is being done without cutting corners. He said that their starting budget was over \$250,000 and that they are repairing/replacing everything needed to make this property a jewel for the neighborhood and taking it from the eyesore it is now. Mr. Witczak went on to say that they are not house flippers and this is the sixth project that they have done. They intend to hang on to the property and place quality tenants in their units.

Also in attendance this evening was some neighbors who wished to express their concerns to the Zoning Board and to the applicant. Mr. Roger Keener of 24 Prospect Ave. spoke. He stated that he and some of his neighbors who were not present were concerned about the increase in traffic and noise. Mr. Keener stated that he appreciated what the applicants were trying to do and their attempt to clean the place up but the property owners may not always know what goes on at the property due to not residing at the property in question. Building Inspector/CEO Mike Kaleta interjected that if there is an issue of excessive noise; partying or anything else that the neighbors feel is in violation of the Village Code, that they should contact the Village Office or the Police Department. Mr. Keener also expressed concern with the amount of parking and vehicles at the property and where these cars would be gaining access. Mr. Witczak stated that at this time he intends to continue to use the drive way off of Elk St. and not use the old driveway off of E. Main St.

Mr. Kaleta encouraged the Zoning Board to refer to Chapter 200-45 regarding the parking. In it, the Code states that there should be two parking spaces per dwelling unit. There is ample room to meet these minimum parking requirements requirements

Another neighbor, Andrea Domst, got up to speak. She just wanted to tell the applicants that she lives across from their driveway on Elk St. and that she has been watching progress and that she likes the improvements that she is seeing already and to keep up the good work.

Applicant, Mr. Witczak informed the neighbors that he would be more than happy to sit down with them over coffee sometime and discuss any of their concerns and what he can do to help alleviate some of them.

Regarding the Zoning Board petition, the ZBA declared the SEQR for File #7943 a Type II requiring no further action.

The Zoning Board, after some more discussion, decided to go over the factors considered when decision making for a Use Variance.

At this time, Member Joe Wolniewicz closed the Public Hearing. The Zoning Board of Appeals went over the factors considered in their decision:

**FACTORS CONSIDERED:**

1. The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial: Yes \_\_\_ No x
  
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.): Yes x No x - *two members felt it was yes and two members were compelled to answer no.*
  
3. The requested use variance, if granted, will not alter the essential character of the neighborhood: Yes x No \_\_\_
  
4. The alleged hardship has been self-created: Yes x No \_\_\_

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

The ZBA, after taking into consideration the above four factors, finds that:

*That the applicant has proven unnecessary hardship through the application of the four tests required by the state statutes. In finding such hardship, the ZBA shall grant a variance to allow use of the property in the manner detailed in the manner below, which 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:*

**A total of nine units shall be allowed.**

RECORD OF VOTE			
MEMBER NAME	AYE	NAY	NO VOTE
SUE OWEN	_____	_____	<u>  x  </u>
JOE WOLNIEWICZ	<u>  x  </u>	_____	_____
TIMOTHY O'NEAL	<u>  x  </u>	_____	_____
CHRISTY GREENE	_____	<u>  x  </u>	_____
DAVE GUADAGNA	<u>  x  </u>	_____	_____

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Lastly, a motion to approve the minutes from the September 28, 2016 meeting was made, Member Christy Greene made the motion, seconded by Member Joe Wolniewicz. All in favor, none opposed.

At 8:27 p.m. Member Joe Wolniewicz made a motion to adjourn the meeting, seconded by Member Christy Greene. All in favor, none opposed.

Respectfully Submitted,

Kellie R. Grube