

The Mechanicville Zoning/Planning Board held a meeting at the Mechanicville Senior Citizen Center, 178 North Main Street, Mechanicville, New York on June 6, 2023 Chairman Frank Scirocco opened the meeting at 7:02 P.M.

Roll Call:	Frank Scirocco	- present
	Robert Chase	- present
	Richard Delaney	- present
	Martin Doyle	- present
	Ed Morcone	- present
	Dan O'Connor	- present
	Addy Waldie	- present

Addy Waldie led the Pledge of Allegiance

Frank Scirocco: Has everyone had a chance to read the minutes from the last meeting? I don't recall seeing them, but that doesn't mean anything because I have been away. Is there a motion to approve?

Motion by:	Dan O'Connor
Seconded by:	Bob Chase

Ayes: 7 Nays: 0

Frank Scirocco: First on the list, David DeVito, it was published in the Gazette and all the neighbors were notified. Do you have copies of the receipts?

Gina Kenyon: Yes, I do.

Frank Scirocco: Let the record show the neighbors were notified of the potential area variance. I am going to ask you to speak loudly because our microphones are not working.

Dave DeVito: Dave DeVito, 164 South Main I am here for a shed, I guess there is variance for five (5) foot, I just put a new fence up, I am just asking for like three (3) foot from the fence, to run parallel from my house and deck.

Frank Scirocco: So, you have nine (9) on one side, correct? You want to put a shed up and you are encroaching on the five (5) foot.

Dave DeVito: Yes, you have a five (5) foot variance. So, I put a fence up and now I want to put a shed along the fence, it is going to be even with my house and deck. It is like a two (2) feet difference.

Frank Scirocco: Let me just go over the Board with this, the criteria for an area variance: a) Whether an undesirable change will produce a change in the character of the neighborhood,

b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the variance;

c) Whether the requested area variance is substantial;

d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and

e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but not necessarily preclude the granting of the area variance.

So, what we will do is have the Board ask you some questions. Martin?

Martin Doyle: This is a new shed?

Dave DeVito: Yes.

Martin Doyle: Can you show us. I take it, it is going on the south side where the new fence is.

Dave DeVito: Yes, it will be parallel to my house.

Martin Doyle: Somewhere behind the shed that is already there? So, you're not just requesting a variance for that shed because, it ends up closer to the property line.

Dave DeVito: Right, I am going to put a new shed alongside that.

Martin Doyle: So, would it be possible for him to show me on a google map, the approximate location of where the shed is going.

Frank Scirocco: Sure, if you think it is relevant.

Martin Doyle: A shed right next to the existing shed.

Dave DeVito: Correct, I am not sure what size I am going to get, 12 or 14 foot

this way.

Martin Doyle: Save foot as the existing shed.

Dave DeVito: Yes, so it will be parallel with everything. That shed is full with all my stuff.

Martin Doyle: So, the shed, you want the front parallel so when you move the fence with the property line, you didn't move the property line but the property line was defined, install the fence within six (6) inches or on the property line. So, the question becomes, your out in the grass, does it have to be right in line with the existing?

Dave DeVito: Yes, because I am going to tie it together. So, it is uniform, there is no where else to put it in my yard but I need it for my quad and all my other equipment.

Martin Doyle: Is the existing shed tied down, is it fixed?

Dave DeVito: No, I don't think so, it is moveable. All sheds are moveable, they are never in place. Nothing is secured, a shed is a moveable, I mean I can't move it, you need to forklift it out, so that is why...

Martin Doyle: So, the existing shed could be moved.

Dave DeVito: Yes, I was going to get a big one, I was going to trade that one in and get one solid one so, instead of having two (2) sheds I was going to get a bigger one, lengthen out the amount of feet that is there. I am negotiating around what to do with it but, this way here, if I have a variance I can technically put right where it is now. But, I would rather not have to do all that but if it is easier.

Martin Doyle: I guess it would be a cost consideration and I don't know how much that would cost. The one you are thinking of putting is 14 foot long by 10. The existing is 12x10 or something.

Dave DeVito: It is 10x I am not sure what it is. Like I said it might be the same size, where I am negotiating what to do how I am going to do it in there.

Martin Doyle: So, it will by 24-26 along there and 2 feet of the fence.

Dave DeVito: Yes, approximately 2 to 3 feet from the fence.

Martin Doyle: I guess that is what I have for questions.

Frank Scirocco: Ed?

Ed Morcone: Dave, are you keeping the original shed too?

Dave DeVito: Yes, possibly, yes, whatever is going to be cost effective. I might just go with a longer one and take that one out but, otherwise I think I am just going to go with the 10x12 or 10x14.

Ed Morcone: Ok, I am good.

Frank Scirocco: Richard?

Richard Delaney: When I talked to you yesterday in your driveway I looked in the back but I did not realize you had this other shed there because I did not go far enough back. So, you say the new shed will be about 14x10 is it a pre-fab shed?

Dave DeVito: Yes, vinyl but I am not 100% on the vinyl.

Richard Delaney: But it is pre-made. Where the question asked if it is possible to satisfy your needs through any means other than a variance? You said it would block the property and be too far in the middle what do you mean exactly by that.

Dave DeVito: One shed would be like this and the other shed would be like that I just am going to make them parallel.

Richard Delaney: So, you want them to be even and line up!

Dave DeVito: Right.

Richard Delaney: So, you don't want to come further, in the middle of the yard.

Dave DeVito: That is why I need a variance for a couple of feet.

Richard Delaney: That is all I have.

Frank Scirocco: Addy?

Addy Waldie: If you are putting it next to an existing shed in the same location then, the existing shed is two (2) feet from the property line.

Dave DeVito: I haven't really measured but there is at least three (3) foot, or 2 ½ foot.

Addy Waldie: I guess I am just confused because you are asking for a variance to put a shed next to a shed that is already there and aligning them.

Frank Scirocco: One of them is obviously non-conforming.

Addy Waldie: ok, I don't have any more questions.

Frank Scirocco: Bob?

Bob Chase: Are you going to put power in it.

Dave DeVito: Yes I probably will.

Frank Scirocco: Dan?

Dan O'Connor: I took a ride by and took a look at it; I don't have an issue with it because there is already a six (6) foot privacy fence there to block neighbors so I don't have an issue with at two (2) foot variance.

Frank Scirocco: There is not one there now, you don't have it there now.

Dave DeVito: I have the older shed there.

Frank Scirocco: I looked and I didn't see anything, but I heard it was already there and you are here after the fact. To ask you to reduce the width of the shed to try and conform, would be crazy, I don't have a real issue. What about the height and the run off?

Dave DeVito: What do you mean run off?

Frank Scirocco: Rain, water?

Dave DeVito: It will be the same as if there was nothing there. It will be on my property; it is not going to go anywhere.

Frank Scirocco: Will the drainage be in your neighbor's yard?

Dave DeVito: I am going to put all stuff behind it, the fence finally got finalized.

Frank Scirocco: Will you be blocking any view; I don't know how high it is.

Dave DeVito: So, they can look in my yard? My pool?

Frank Scirocco: Some people like looking at your pool.

Dave DeVito: I don't want people looking at my pool.

Frank Scirocco: I am going to close this part of the hearing and we will see what your neighbors have to say. I am going to open this up to anyone wishing to speak in favor or opposition. We need you to stand up, tell us who you are, tell us your name, and your address.

Shara Edwards, 166 South Main Street, Robert Harrington, 166 South Main Street. We oppose of the variance of five (5) feet which he originally applied for. First off the shed that is currently there is not parallel or next to his house, it is quite a way off, I have this for everyone. I also have the survey we have obtained in October 2021. As you can see the shed it is a good few feet from the end of his house so the alley way goes in between our property so his shed is pretty much 12 - 15 inches where the fence was put in. We still don't know if the fence is on the survey line, because we are waiting for Code Enforcement to come over and make sure it is clear and is correct. So, wherever that is now is about 12-15 inches so it is not 2 to 3 feet.

Frank Scirocco: Will you come up and tell us where you are talking about.

Robert Harrington: His fence was 18 inches onto our property. His fence runs up behind the fence. We have no problems with Dave putting it two (2) foot off of his fence, but we don't want it up against our fence. If he goes two (2) foot, we have no problem with that. We will agree he can, as long as this one is two (2) foot in and the new one is two (2) foot off the fence, we have no issues with that.

Frank Scirocco: He is only asking for two (2) foot. This one is not three (3) foot or two (2) foot off the fence.

Robert Harrington: You can come look tomorrow; we have no problems with it

being...

Frank Scirocco: So, you don't have an issue with this application?

Robert Harrington: No, but we wanted to clear up his fence, his shed is a little close, get Code Enforcement over to show him, we have no issue with that.

Frank Scirocco: We are not an enforcement agency.

Robert Harrington: I know, I am just trying to state. With the rain and everything we just want to make sure it doesn't wash into ours.

Frank Scirocco: Basically, you are not opposed to this application.

Robert Harrington: No, with what Dave said we agree.

Shara Edwards: I am opposed to the original application that stated five (5) feet. He wanted to put it on the property line, is what the original application was.

Frank Scirocco: This is the only application I have ever seen.

Robert Harrington: As long as it is two (2) foot off our line and the fence line (he put his fence on our property line) we have no problem with that.

Frank Scirocco: He is asking to be two (2) feet from his property line. If it is approved Code Enforcement will make sure that is the case. Anything else? Thank you. Anyone else here to speak in favor or opposition. I will close this part of the hearing. Are there any other questions from the Board before we act on the application?

Martin Doyle: I think I have one more. When you installed that first shed did you think you were five (5) foot from what you thought was the property line.

Dave DeVito: That was way many years ago that the shed has been there. I just put it parallel to my house from the deck.

Martin Doyle: How many years might that be.

Dave DeVito: Ten (10) or twelve (12), maybe even more than that, I don't know.

Martin Doyle: I don't know exactly when that provision for distance from the property line went in but, that was the case and you thought your property line was further over.

Dave DeVito: Correct.

Martin Doyle: It should probably be the five (5) foot. That is my thought, then it just comes down to how much work is it to move the existing shed and then line them up.

Dave DeVito: Move it where?

Martin Doyle: Move it so you are providing five (5) foot.

Dave DeVito: That is why we are here though; I am asking for a variance.

Martin Doyle: Ok, you helped me out, thank you.

Dave DeVito: Whether it is two (2) feet or eighteen (18) inches I just want to make it parallel to everything, make it uniform.

Frank Scirocco: Are there any other questions? Is there a motion to approve this application or deny it?

Richard Delaney: I will make a motion to approve it.

Dan O'Connor: I second that.

Frank Scirocco: The motion being that the Board finds no undesirable change in the neighborhood, we don't believe there is another way to get around this, we don't believe the variance is substantial, no adverse impact on the neighborhood, neighbors are in favor of the application the way it is stated, and that it should be two (2) foot from the property line.

Dave DeVito: I am going to have to measure to be 100%.

Frank Scirocco: It is going to have to be two (2) feet from your property line. There is a motion made by Richard Delaney, seconded by Dan O'Connor. Call the roll.

Bob Chase: Yes

Richard Delaney: Yes

Martin Doyle: No – because I think it could be moved, the existing shed could be moved so that this would line up and would have the five (5). Not that you will ever need to maintain, that is your fence right?

Dave DeVito: Yes

Martin Doyle: Not that you may ever need to maintain the fence from your side or the back side of the shed but two (2) foot is awful tight if it is sitting right on the property line. Six (6) inches in then you have a foot and a half to try and maintain the shed and the fence. I am going to have to apologize to you but I am going to have to vote no.

Dave DeVito: That is fine.

Ed Morcone: Yes

Dan O'Connor: Yes

Addy Waldie: No

Frank Scirocco: Yes – seeing that there won't be an undesirable change, and the stipulation that it be two (2) foot from the property line, I vote yes.

Gina Kenyon: Motion carried.

Frank Scirocco: Motion carried; variance granted. Matthew Chatham.

Matt Chatham: I am from 183 Saratoga Ave for an area variance for small platform, it is technically a deck, it is 12 x 12, the area of the yard that I would like to put this in gets very wet so I wanted to build a little platform so I can put patio furniture on it.

Frank Scirocco: This can be moved wherever, is what you are telling us?

Matt Chatham: It is a floating deck so it is not attached to the ground, it is built with 2x6's, it is 12x12, it sits on the ground, it is so we can put patio furniture on

so we are not sinking in because the next-door neighbors, a lot of water comes down between the two (2) houses, because of that the ground is very soft. There is a tree that splits our property, so it is right in the middle of it, that is a little further back. We like to sit out in the back yard, but we need an area that is not squishy, and we are not ruining the grass.

Frank Scirocco: I wish our Attorney was here, it is a 12x12 structure that is not attached to anything, there is no foundation, I am wondering if there is even a reason for an area variance but, she is not.

Matt Chatham: The Code Enforcement Officer stopped by and we talked about the size of it and he said I did not need a building permit for it, I just told him I wanted to put it close to the property line, there is an existing fence there that is our neighbor's fence, so I want to just put it close to that, within two feet, he just told me I need to come get an area variance.

Frank Scirocco: Were you denied a building permit.

Matt Chatham: He said I didn't need one.

Frank Scirocco: You shouldn't be before us. To come before the board, let this record be clear, you need to be denied by the Building Department, to get any type of variance.

Gina Kenyon: The deck was already built.

Matt Chatham: When he stopped by, it was not built.

Gina Kenyon: Were you in the process of building it.

Matt Chatham: I had the wood...

Frank Scirocco: It doesn't make any difference, when he applied for the variance, we needed the denial, there is no denial on the application for the reason. In the future make sure any applicant has a denial or they can't come before the Board. We are just going to go with the thinking that you need an area variance and we will take it from there, I don't think you do but, I could be wrong. Martin?

Martin Doyle: Would you mind showing where you intend to put this, I take it that it must be on the east side. So, behind this structure on the west side of the

property.

Frank Scirocco: Let me just interrupt for one second, I will let the Board think about this, what is you wanted to put a 12x10 picnic table out there, would you need to come before the Board, what is the difference. I wish the Code Enforcement Officer was here.

Matt Chatham: It is not a structure.

Addy Waldie: It is not attached.

Matt Chatham: We had a discussion about it, I think he was just upset I didn't go to him and apply for a building permit. I didn't think I needed one because it is not a fixed structure, it is not attached to anything, and I didn't think I needed one.

Frank Scirocco: That is why I would like to see a denial before you came.

Matt Chatham: He stopped by and he asked me a bunch of questions, I don't think he was happy I was building it without asking permission.

Frank Scirocco: What if you were building a picnic table that was that size.

Matt Chatham: That is what I thought.

Frank Scirocco: We are thinking along the same lines, he is not here, I think this is ridiculous. Ed?

Ed Morcone: I agree with what you are talking about, it is not a fixed fixture, there is nothing in the ground right?

Matt Chatham: Nope.

Frank Scirocco: Addy.

Addy Waldie: I don't understand why it's a variance application, it is not a structure.

Frank Scirocco: I don't see anything in the code book which is why we would love to see what section b and article a denied by. Bob Chase?

Bob Chase: I agree, I don't see why we are here doing this.

Frank Scirocco: Dan?

Dan O'Connor: If he doesn't need a building permit he doesn't need a variance.

Frank Scirocco: Is there a motion to approve this, two (2) foot from the property line.

Motion by: Dan O'Connor

Bob Chase: Why are we granting a variance that is not necessary?

Frank Scirocco: We are here, you can vote no. Is there a motion to grant a two (2) foot variance for this, I don't even know what to call it, patio furniture, table, floor.

Motion: Dan O'Connor

Richard Delaney: It is near your neighbor's property line; do you know if there would be any impact on your neighbor's as far as the noise levels when you are using the deck or if you have lighting up there. Do you neighbors know you are going to do this.

Matt Chatham: Yes, so before we had built it we asked them because the property next door has tenants in it, so the owner of the property reached out and I talked to him, we just asked them if they minded we build. There is no impact on the noise, we are using that area of the yard already.

Richard Delaney: Ok, so that don't have a problem with it.

Matt Chatham: Ok.

Ed Morcone: So, this is already built.

Matt Chatham: Yes.

Frank Scirocco: They could put a picnic table near the fence if they wanted. I actually have a horseshoe court two (2) foot from my fence line, which is constantly banging the horseshoes every Monday night. That is another story for

another time. Motion by Dan O'Connor to approve the two (2) foot variance, second?

Seconded by: Bob Chase

Bob Chase: Yes

Ed Morcone: Yes

Richard Delaney: Yes

Dan O'Connor: Yes

Martin Doyle: Yes

Addy Waldie: Yes

Frank Scirocco: Yes

Frank Scirocco: You are good Matt, I looked at this application and said why is here. Is there anyone here to speak opposed to his dancing table. I am sorry.

Frank Scirocco: Peter Buser? Everyone has been notified? All the applicants have notified and we have all the receipts? Peter, you want to take a two (2) family that exists.

Peter Buser: It is known as a single family but it has two (2) meters.

Frank Scirocco: So, a two (2) family right now and you want to change it to a three (3) family. Any major construction on the outside that we need to know about, or is it all inside.

Peter Buser: Inside is pretty much going to be gutted to the bones.

Frank Scirocco: No change to the footprint.

Peter Buser: No change to the footprint.

Frank Scirocco: How much parking do you have.

Peter Buser: I have six (6) parking spots, three (3) of them are the garages and three (3) in front of the garages.

Frank Scirocco: If one (1) car is in how does the other car get out?

Peter Buser: They share, each unit get the garage and the unit behind it, that is up to them.

Frank Scirocco: So, the cars will be off the street.

Peter Buser: Yes.

Frank Scirocco: The biggest concern is snow removal in the winter and cars parking on the street. What you are going to do inside is really not a concern, Martin?

Martin Doyle: My understanding, right now, it is two (2) family up and down and then there is going to be two (2) down and one (1) up.

Peter Buser: Yes.

Martin Doyle: The new door that has been put in to the exterior, is that for the larger apartment or is that for the upstairs.

Peter Buser: That is for the larger apartment.

Martin Doyle: That is for the larger apartment, alright, is there room where they currently store the garbage containers for two (2) more garbage, or one (1) garbage, one (1) recycle bin? Where they keep them now, is there room for another set?

Peter Buser: Yes. It can go right along the garage.

Martin Doyle: Is that where they are currently stored?

Peter Buser: They are in the grass area now.

Martin Doyle: So, there is room for the cars, and the bins in each stall?

Peter Buser: I will probably bring the bins outside along the garage or the house where ever they agree upon actually.

Martin Doyle: I heard it but I am going to repeat it here to make sure I am right, you are not changing the footprint of the building, all the alterations are inside, you are not adding to the building?

Peter Buser: No, I am not.

Martin Doyle: The only change is the door to the exterior.

Peter Buser: Yes, I was actually hoping to build a small deck off of it, I spoke to Kyle about that this morning actually.

Martin Doyle: That's what I have.

Frank Scirocco: Ed?

Ed Morcone: The parking, that question has been answered.

Frank Scirocco: Richard?

Richard Delaney: So, this was originally a one (1) unit structure, so now you want to downstairs one (1) studio apartment, one (1), two (2) bedroom, and two (2) baths, those are the two (2) downstairs units and then upstairs you have a two (2) bedroom, one (1) bath, is that right?

Peter Buser: Yes.

Richard Delaney: Will you describe the entrances and exits for each of those apartments.

Peter Buser: So, the upstairs is the front of the house right now, the main entrance on the Third Street side, and then, the mean of egress in the back would be the back window and the roof is lower. Downstairs the larger apartment, the door is the main entrance and directly on the opposite of that door, Kyle recommended putting an egress window in the bedroom.

Richard Delaney: So, you would have tow (2) emergency exits, or one (1) emergency exit in addition, you will have one (1) door going into all three (3) apartments?

Peter Buser: Every apartment will have its own door so they won't cross paths.

Richard Delaney: I mean to get in the entrance of the building, is there one (1) door?

Dan O'Connor: There are three (3) doors.

Richard Delaney: So, you would have an escape plan in the event of a fire.

Peter Buser: Exactly, yes.

Richard Delaney: Assuming someone could go out the window and make it down. I notice there were three (3) garages and the three (3) parking spaces, you really only need three (3), it is one for existing and 1 ½ for new construction.

Frank Scirocco: It all depends how you look at new construction, you know what I mean?

Richard Delaney: I think he is ok; the only thing is you are likely to have street parking as well. When I looked at it yesterday I didn't see many cars on the street but that was a work day.

Frank Scirocco: It wouldn't be tenant street parking.

Richard Delaney: It could be tenants depending how many cars they have, or if they were to jockey their cars, one is in the garage. I have a question about the waste containers, you would need space for six (6) containers, three (3) garbage, and three (3) recyclables. Do you have that?

Peter Buser: Yes, it is just a matter of where they want to put them.

Richard Delaney: There is no greenspace at all for any of the tenants if they have children, there is really no greenspace at all.

Peter Buser: There is not a lot.

Richard Delaney: I mean it is a corner lot.

Frank Scirocco: He is not changing the footprint so greenspace really doesn't matter.

Richard Delaney: There is going to be more tenants in the building. Those are the only questions I had.

Frank Scirocco: Addy? There will be no trees.

Addy Waldie: There are trees there now. The trash bins were my question and parking and they were answered.

Frank Scirocco: Robert?

Bob Chase: No.

Frank Scirocco: Dan?

Dan O'Connor: My only question, is that new door he put in, the amount of space you are going to have for a deck or something there plus a set of stairs to come down, I don't want you to encroach too close to that sidewalk.

Peter Buser: That is a good question.

Dan O'Connor: You can put the stairs towards the garage side, if you had to build a set of stairs to that door you wouldn't have a big deck.

Frank Scirocco: The issue the Board has with special permits for multi-units is parking. Richard made a good point, your tenants will be parking on the street, we can make a motion that we grant this special permit providing that your tenants park where they are supposed to park, other than that I see no reason not to grant this.

Richard Delaney: I just have one other comment, there is a porch upstairs balcony what units does that serve.

Dan O'Connor: Upstairs is one (1) apartment.

Frank Scirocco: I am going to close this part of the hearing and open it to the general public for comments, is there anyone here in opposition or in favor of this please stand up, give us your name, your address, and speak loudly so the tape recorder can hear you.

Barb McGuire 101 South Second. I didn't know that the property was ever two (2) family, it is listed as one (1) family.

Frank Scirocco: There are a lot of things we don't know.

Barb McGuire: Well, I looked it up, it is one (1) family, so how can you go to a two (2) family to a three (3) family.

Frank Scirocco: By special permit because a two (2) family is allowed.

Barb McGuire: He says he is going from a two (2) family to a three (3) family not going from a one (1) family to a three (3) family.

Dan O'Connor: It was probably never changed.

Barb McGuire: How do we make sure.

Frank Scirocco: That is out of our jurisdiction.

Barb McGuire: I just looked it up the other day. If it was a two (2) family it should have been changed a long time ago because the women who owned it, I don't believe ever had tenants, she lived in the house and she had a chiropractor business.

Frank Scirocco: Apparently when he bought it, it was a two (2) family or it was converted into a two (2) family somehow. I don't recall granting any variance, I have been here thirty (30) years and I don't recall.

Barb McGuire: I have lived on Second Street since 1965 and there was never any two (2) family there.

Frank Scirocco: At some point it became a two (2) family.

Barb McGuire: But how do we know that for sure?

Frank Scirocco: We don't.

Barb McGuire: How can you grant it if you don't know if it is already a two (2) family.

Frank Scirocco: We assume that the application is correct and the Building Department has looked into this. So, you are saying this application may be fraudulent.

Barb McGuire: I wouldn't call it fraudulent.

Frank Scirocco: Well, that is what is would be.

Barb McGuire: Well, then that is what it is.

Frank Scirocco: If he is stating that it is two (2) family now.

Barb McGuire: Somebody could of just verbally told them that, he never looked it up and assumed that things were correct, and they are not.

Frank Scirocco: We will be talking to him again. Anyone else?

Kim Dunn, 250 South Main Street, I have the same issue that Barb has, I don't understand how, I wish Kyle was here tonight because I have a lot of questions for him about this whole thing going on here, I don't know how it can get to you guys, this isn't on you, you have to presume that when it gets to you it is correct and you should be able to take action on that, I think the Attorney should be at these meetings and I have said this before countless times and the Building and Codes should absolutely be here. Multiple times when you guys have questions it would help you, I personally don't think you should take action on anything you are unsure of, if there is any question, if something shouldn't reach you guys it should be tabled to check on it and not take action on something you might have to on. I want to know also, it is listed as a one (1) family so is that a mistake, then that is on someone at the City, but still I don't know when he bought it, and also I am not a fan, like I have said multiple times, of keep adding more to our existing structures. We are taxing our City infrastructure, Police, EMS, Fire etc. I think you guys should look into this now that we have brought this to your attention because how can it be listed as a one (1) family, he just paid taxes on it presuming he owned it March 15th as a one (1) family. So, are we going from a one (1) family to a three (3) family? That is exactly how it is recorded. Thank you.

Frank Scirocco: Anyone else? If there isn't anyone else, I will close this part of the hearing and could you come back up. It appears to be some questions on whether this is a two (2) or a single family and when it happened or didn't happen. I don't think this Board is going to take any action on this application until we get some clarification because your application states you are taking a two (2) family but we are being told it is a single family, it probably is a two (2) family but we don't know that. We don't go inside, we look at the outside, Building Department needs to look into this, so we are going to not take any action tonight until we get

some clarification. No need for anymore questions until we get the answers we need from either our Attorney or the Code Enforcement.

Peter Buser: When I purchased it in April, so I don't have much history with this property, it was zoned as a single family, these are two (2) meters on it and the layout of it is the upstairs was living space and downstairs was a chiropractor office. Essentially that should have been commercial right?

Frank Scirocco: Chiropractor would have been a use that a residential area is allowed.

Peter Buser: Alright, I did not know that. I figured if you ran a business it was commercial.

Frank Scirocco: There are certain businesses that are allowed in residential districts, like a Dentist Office, Hairdresser, it is limited but Chiropractor would be one. Basically, what you are saying is it was a single-family home but there was a personal use business downstairs. So, it was two (2) different occupants.

Peter Buser: As far as my knowledge, yes. The downstairs was definite laid out as a Chiropractors Office.

Frank Scirocco: Like I said, we are going to table this for now and we need to talk to Lyn and Kyle about this. I am going to table this to the next hearing.

Peter Buser: Do you know when the next hearing is?

Frank Scirocco: It will be in July. She will notify you of the date.

Peter Buser: Ok, I was told that I didn't have to go to the Board for it to go to a two (2) family, is that still...

Frank Scirocco: That is an allowed use, that is correct.

Peter Buser: I just wanted to make sure, there is not work going on for the third (3rd) unit now just the two (2) units have construction going on. The second (2nd) unit is what we are working on now, after I found out I had to go in front of the Board, I put a halt on the third (3rd) unit.

Frank Scirocco: You will be notified by mail.

Martin Doyle: May I make a suggestion. If there is a kitchen, I don't know what unit you mean when you say first (1st) unit second (2nd) if there is a kitchen on the second (2nd) floor, kitchen and a bathroom I would suggest you document that. If you demo a kitchen it is not going to help. Get Building/Code to document that there is a kitchen on the second floor. I am assuming there is one on the first (1st) floor.

Peter Buser: There is no kitchen on the first (1st) floor.

Martin Doyle: Well then.

Frank Scirocco: Is there a motion to table this?

Motion by: Dan O'Connor

Seconded by: Addy Waldie

Bob Chase: Yes

Ed Morcone: Yes

Richard Delaney: Yes

Dan O'Connor: Yes

Martin Doyle: Yes

Addy Waldie: Yes

Frank Scirocco: Yes

Peter Buser: Thank you for your time.

Bob Chase: Can we make our Lawyer and the Code Enforcement Officer mandatorily attend these meetings.

Frank Scirocco: I have asked.

Gina Kenyon: One of them had a death in the family and one of them is sick.

Bob Chase: Ok then, besides things like that if they are not here we should not be hearing these cases.

Frank Scirocco: That is not true, every meeting we have had I have requested both the Attorney and the Building Inspector be here. That is all I can do.

Dan O'Connor: He is changing codes on us we should know about that.

Frank Scirocco: He is not changing codes.

Dan O'Connor: He wants to visually check apartments like if a tenant moves out and a new one moves in.

Ed Morcone: He can start next door to me.

Dan O'Connor: Check your water pressure, your sewer lines.

Frank Scirocco: That has nothing to do with us, we have no jurisdiction over that.

Gina Kenyon: That is just for fire inspections.

Dan O'Connor: Every time a tenant moves out?

Frank Scirocco: That is the Building Department's thing it has nothing to do with us. Next, Remodel Now, I was looking for a name. You are?

I am Carl the owner of Remodel Now.

Frank Scirocco: Do you have last name?

Carl Godfrey

Frank Scirocco: Tell us what you are doing.

Carl Godfrey: So, I bought 7 Short Street last November upon buying it we made it a two (2) family, the attic space is the whole length and width of the second (2nd) floor so instead of losing the space that is where I wanted to bring the third (3rd) floor into the third (3rd) unit. We provided floor plans, we are putting fire sprinklers up there, we have plenty of room for parking. It is a one (1) bedroom apartment.

Frank Scirocco: There is no change in the footprint.

Carl Godfrey: There is no change in the footprint, there is no change in the exterior, the whole building has already been renovated. Instead of leaving it as storage or attic space, it is almost eight hundred (800) square feet.

Frank Scirocco: A special use permit would have included automatic site plan review; I don't understand why there is two (2) applications. We are going to cover everything in the special permit that would have normally been covered and a site plan review if... Martin?

Martin Doyle: I guess my first question is are we going to run into the same problem with this building as the last one, that we are going from a single unit to a three (3) unit? When you purchased it what was it.

Carl Godfrey: It is a legal two (2) family, so right now what we are doing is, we want to change it from a two (2) family, now we need a special use permit to go to a three (3) unit, which it doesn't affect anyone, it doesn't impact anybody, it doesn't impact parking.

Martin Doyle: My apologies then. So, your map shows the storage for the waste containers out near Ellsworth Avenue so, the question, and it is right out near the Street, is that going to have some sort of screen.

Carl Godfrey: We are proposing that area, I haven't fenced it in yet I want to do a black chain linked fence. The garbage companies come down that main road which is easier than them going on Short Street. It would be fenced in I haven't done it because we need permission to fence it in.

Martin Doyle: The best I have is I have concerns I see you have sprinklers that are installed or will be installed and it is one door. Is the full building sprinkled then?

Carl Godfrey: No, just the third (3rd) floor and each floor has two (2) egresses to get out including the first (1st) and second (2nd) floor.

Martin Doyle: The exterior stairs are going to be fun. That is my questions.

Frank Scirocco: Let me read the Board, so we don't get carried away. These are special permit uses in residential districts: A) The use shall be located on a lot large enough to accommodate the building or buildings involved and necessary off-street parking or garaging space and meet all yard requirements of the district. B) does not apply; C) does not apply; D) the ZBA/Planning Commission, in acting on any application, may impose such additional requirements as it may deem necessary to meet the needs of a particular case. So, before we get too far on any

of our questions that is the criteria for the special permit in residential districts, just so you know. Ed?

Ed Morcone: This is an attic apartment, correct?

Carl Godfrey: Yes.

Ed Morcone: I guess my concern was people getting out of there in case there was a problem. I understand there is a sprinkler system there and it is supposed to do its job but people need to be able to get out of there. You have off-street parking?

Carl Godfrey: Yes, each tenant has its own entrance, each tenant has two (2) car off-street parking.

Ed Morcone: Is there any kind of fire escape for the third (3rd) floor.

Carl Godfrey: The third (3rd) floor is the massive staircase that comes down.

Ed Morcone: Within in the house?

Carl Godfrey: No, the stairs are on the exterior of the house, if at that point of time the sprinklers active you pivot to the door you are outside.

Ed Morcone: That is, it for me for now.

Frank Scirocco: Richard?

Richard Delaney: Are the first two (2) levels occupied now?

Carl Godfrey: Yes. They are both two (2) bedroom one (1) bathroom.

Richard Delaney: And you said there were two (2) entrances and exits for the first (1st) two (2) floors.

Carl Godfrey: First (1st) floor and second (2nd) floor.

Richard Delaney: I saw the stairway; I thought it looked very impressive actually. You have enough parking. That is really all I had. The one thing I noticed when I was over there yesterday, I was only there for a few minutes, the amount of traffic coming from Central Avenue or going into Central Avenue.

Carl Godfrey: I never realized how busy that was, when I was working there it gets a lot of traffic.

Richard Delaney: If any of your units have small children the parents should be told. I did notice you plan on putting a screen of trees.

Carl Godfrey: So that is where the one (1) car garage is, so where the one (1) car garage is, we use that for trailer parking, we are going to line that with evergreens so that the tenants and neighbors won't have to look at them.

Richard Delaney: I thought it was a nice lot.

Carl Godfrey: It is, from where I bought it, we took down almost eighty (80) trees out of there. I didn't even know the one (1) car garage even existed.

Richard Delaney: That is all I have.

Frank Scirocco: Addy?

Addy Waldie: My question is for the site plan review to turn it from a one (1) family to a two (2) family you were to construct the waste container area at that time, was that part of the plan.

Frank Scirocco: I don't know what your question is, we never heard... two (2) family is allowed and if it went before the old planning board, Dick would know.

Richard Delaney: I don't recall, it must have been before I was here.

Addy Waldie: When did you purchase this?

Carl Godfrey: I purchased it last November. We did all the paperwork with the old Inspector that resigned and then Kyle came in halfway through the project.

Addy Waldie: Was your waste container area, your defined waste container area on your original plan?

Carl Godfrey: No one ever said anything to us about our waste container area, we are just proposing those because the cans can get rolled up along the building, they can go anywhere on the lot, but, instead of just the cans being around we would like the container being put in one area.

Addy Waldie: With code, they are not supposed to be visible from the road. I think the code is they are not supposed to be visible from the street and my concern is if that is a busy exit and entrance, is there issue now that wasn't constructed when it became a two (2) family, so how is the issue going to be resolved by making it a three (3) family.

Frank Scirocco: I am sorry, repeat that again.

Addy Waldie: If the waste area, if the waste containers, aren't being controlled as a two (2) family, then how is it going to be controlled as a three (3) family.

Frank Scirocco: That is for Code Enforcement.

Addy Waldie: But I believe the codes states they are not supposed to be visible from the street and Ellsworth is a street and so is Short.

Carl Godfrey: I think everyone on that whole street are visible.

Richard Delaney: It is a large lot.

Addy Waldie: You explained they blow into the road.

Carl Godfrey: I put them out when we got the cans delivered so where they go we have to bring the cans out to the road, so with the wind that is why we want to do a garbage corral so it will be a fenced in area so the cans won't constantly always be in that one location. We can just take it off and we can put the cans up against the building, it just makes more sense to put them in one location.

Addy Waldie: My concern is you are saying the cans are a concern when it is a two (2) family and you only going to do the garbage-controlled area if you get approved to turn it into a three (3) unit. Is that what..

Carl Godfrey: No, we want to propose to fence it in, I don't want to pre-fence it in, everything is proposed on the site plan to be approved so before I put the fence, I didn't want the Board to say they didn't want me to put the garbage corral there we need you to move it out of that location. Then we would need to take down the fence and move it for no reason.

Frank Scirocco: Let me get this straight, your containers are now exposed prior to bringing them out for pick up.

Carl Godfrey: The whole lot is exposed on all four (4) sides, you can every angle of that piece of property.

Frank Scirocco: So, there is no way for you to hide them.

Carl Godfrey: There is no way to hide them, so instead of putting each can in each tenant's door, if we put a black fence up you know a slide chain link fence then all the containers are all in one location and that is why we are proposing in or on the same correct side of garbage pickup.

Frank Scirocco: Anything else Addy?

Addy Waldie: No.

Frank Scirocco: Robert?

Bob Chase: I don't want to beat a dead horse but the third (3rd) floor the only means of egress is by those outside staircases?

Carl Godfrey: Yes.

Bob Chase: Nothing on the inside?

Carl Godfrey: Nothing on the inside.

Frank Scirocco: Is that it?

Bob Chase: That is it.

Frank Scirocco: Dan?

Dan O'Connor: Well, first of all I have to tell you that you did a beautiful job, I thought that house was a tear down, issues I am having are, if I look this house up right now it is still registered as a one (1) family house so we shouldn't even be having this discussion.

Carl Godfrey: Who determines that?

Dan O'Connor: It has to be changed in the books.

Gina Kenyon: The books don't change every time someone buys there is only certain times every year the books can get changed. Do you understand what I am saying. So, on the next tax roll it will be listed as a two (2) family but this one essentially can't because he hasn't received his certificate of occupancy in time for that to have happened.

Dan O'Connor: Is there someone in the apartment.

Carl Godfrey: We have CO's for both floors.

Dan O'Connor: I mean the third (3rd) floor.

Carl Godfrey: No.

Dan O'Connor: I see you have the air conditioning unit.

Carl Godfrey: No, we just pre-prepped everything.

Frank Scirocco: One (1) or two (2) family is allowed in a residential district, the question is how fast the City can move on, the application says it is a two (2) family, it is registered as a one (1) family because of legal technicalities or time it is actually a two (2) family which is allowed.

Dan O'Connor: Then we should have let that last guy go.

Frank Scirocco: That was a little more complicated than this one. I am going to open this up to the general right now. Any comments?

Barb McGuire: I looked it up to and it is listed as a one (1) family, what has to happen when a person has a one family and they want it to be a two (2) family? What is the process? Can you just be a two (2) family?

Gina Kenyon: Building permit. It is a permitted use.

Frank Scirocco: Yes, it is a permitted use.

Barb McGuire: I am just asking.

Frank Scirocco: I just said that a few minutes ago.

Barb McGuire: I am sorry I missed it.

Frank Scirocco: No one speaks loud enough.

Barb McGuire: So, I don't know how he got a certificate of occupancy because the gas meter is sitting on the ground.

Frank Scirocco: We have no jurisdiction over that.

Carl Godfrey: There is no gas in the building....

Frank Scirocco: No back and forth.

Barb McGuire: Well then that explains it, that was just my questions, if it is listed as a one (1) family and now he wants it to be a three (3) family, we are skipping the two (2) family process.

Frank Scirocco: Apparently it was a one (1) family converted to a two (2) family at one point.

Dan O'Connor: He converted it to a two (2) family.

Barb McGuire: So, there are permits that went along with...

Frank Scirocco: He can get a building permit for it because it is an allowable use.

Barb McGuire: I understand.

Frank Scirocco: Obviously he did, I am assuming he did.

Barb McGuire: I mean Kyle came October 31st, so he bought that in November, Kyle was already here.

Frank Scirocco: Yes, it was the past building inspector.

Barb McGuire: He didn't buy it until November and Kyle came in October.

Dan O'Connor: He just bought it in November.

Frank Scirocco: I thought he said the last building inspector.

Gina Kenyon: It was last November.

Carl Godfrey: I bought it last November but they were still making the transition, we put all the paperwork in, when we were starting the demo and framing that is when Kyle took over because the gentleman resigned. Kyle showed up one day on the property said he was the new Code Enforcement and then I walked him through the project. Other than that, the paperwork was already in for a two (2) family and we were approved for that, so I don't know where the miscommunication is.

Barb McGuire: I thought we said he bought it in November and Kyle came in October so I didn't know why Jim Herkel was even involved, that was just my question.

Frank Scirocco: Anything else. I will close this part of the open hearing. Questions? Silence.

Addy Waldie: Why do you want to turn it from a two (2) family into a three (3) family?

Carl Godfrey: Because instead of leaving that space upstairs I thought it would be more receivable to turn it into a one (1) bedroom apartment, which will give another occupancy to the City, our taxes go up, we pay more taxes to you.

Frank Scirocco: That is not really a question you have to answer or we need to ask. Anything else? Since he has met all the criteria for the special use permit is there a motion to approve.

Motion by: Richard Delaney
Seconded by: Martin Doyle

Bob Chase: Yes
Richard Delaney: Yes
Martin Doyle: Yes
Ed Morcone: Yes
Dan O'Connor: No

Addy Waldie: No
Frank Scirocco: Yes

Frank Scirocco: Permit is granted.

Carl Godfrey: Thank you, you guys enjoy your evening.

Frank Scirocco: Before I adjourn I had a thought that maybe you can bring to the Council, I would like to see a moratorium on special use permits for apartments. New construction aside. We need to put the brakes on it right now. The only way to do that, we can come up here and we just can't arbitrarily say no because we don't want it, if they meet the criteria, you have to prove it has an adverse effect on the neighbor and if you go before a judge, I will tell you he is going to say no and I have seen it and I have read it. The only way to prevent it is to have the City put a moratorium on the reconstruction special use permit, however they want to word it. You don't want to stop new construction obviously, that would be the way to do it. It would be a tremendous help I think to the City, the City Council has to do that, we don't have the authority to do that.

Barb McGuire: I can't imagine getting out of that attic apartment during a fire.

Frank Scirocco: You know what, the Code Enforcement/Fire Code can stop the whole thing by saying no this is not going to work.

Barb McGuire: Why can't he put a ladder on the outside of one of the windows that goes three quarters (3/4) of the way down.

Frank Scirocco: If they felt that it was necessary they would make them do it. Lastly, and I hate to use word and I am not going to but Mr. Delaney will be retiring from the Board, I am not going to use the word resignation, that has bad connotations. So, thank you very much for your service.

Richard Delaney: You are welcome. I have enjoyed working with all of you.

Addy Waldie: Really? Have you?

Richard Delaney: I have, most of the time.

Dan O'Connor: He wouldn't be here this long if he didn't.

Richard Delaney: It has been eighteen (18) years.

Bob Chase: Mr. Chair?

Frank Scirocco: Yes sir.

Bob Chase: In regards to the City Council, who is going to bring that up to them?

Addy Waldie: Can we make a recommendation, as the Board?

Frank Scirocco: If you all approve of that you can.

Bob Chase: Can we put it in writing and get it to them.

Frank Scirocco: We would need to formulate it with the City Attorney to make sure it is legal, yeah I think that would be a good idea, if everyone is in favor.

Everyone was in favor.

Frank Scirocco: I will get together with Gina and City Attorney.

Barb McGuire: If not one of us could.

Frank Scirocco: Yeah, absolutely.

Gina Kenyon: I think it would be more effective if the Board did it.

Frank Scirocco: Coming from us it would be.

Barb McGuire: But if she says no we can't do that then one of us can.

Gina Kenyon: If she says no you can't do it then there is probably a legal reason why.

Barb McGuire: If there really is a reason why you guys can't do it then one of us can.

Dan O'Connor: Then someone from the public can.

Frank Scirocco: It has been done in other communities where they put a six (6)

month moratorium or a year, or unlimited moratorium.

Addy Waldie: The concern is we can only address technically parking but you are also looking at the integrity of the neighborhood and when you start adding more units it changes the dynamic of the neighborhood, there is more traffic, it is more parking, it is more traffic in the neighborhood, and it is a strain on the infrastructure which we are charged to protect, we are charged to protect the integrity of the neighborhood.

Dan O'Connor: I wish he put a hedge row all the way down the track side.

Frank Scirocco: That would be my proposal. I have been thinking about it for a while.

Motion by: Dan O'Connor

Seconded by: Addy Waldie

Ayes: 7 Nays: 0

Meeting adjourned @ 8:20 pm