

**Meeting of the Zoning Board of Appeals of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Monday, May 23, 2005 at 7:00pm.**

**PRESENT:** Chair Jennifer Skoog-Harvey, Vice Chair / Member Irene Manitsas, Member John Bush, Member Charles Switzer, Member David Wagenhauser, Building/Zoning Officer Scott C. Zarnstorff, Clerk Leslie Ann Morelli.

**EXCUSED:**

**ALSO PRESENT:** Deputy Village Attorney Frank A. Aloï, Village Attorney Keith O'Toole, Planning Board: Scott Winner, John Bush, Annette Locke, Arthur Appleby, Joan Hamlin, Steve Locke, Rich Maier, Robert Peterson, Gifford Mosher, David Campbell, Andrew Willmes, Duane Beckett, Fred Webster, Kris Schultz, Mike Ferrauilo.

**CALL TO ORDER:** Chair Skoog-Harvey called the meeting to order and led the Pledge of Allegiance.

**REVIEW OF MEETING MINUTES:** None to review. The minutes of the April 25, 2005 minutes will be forthcoming.

**CORRESPONDENCE:** None

**NEXT MEETING:** Monday, June 27, 2005 at 7:00pm

**OLD BUSINESS:**

1. Application of:

Name:	David Campbell
Address:	50 King Street
Tax Map #:	068.52-4-32
Property Code:	220
Zoning:	Business
Lot size:	.09 acre
Purpose:	continuance of non-conforming use as a 2 family
Provision of Zoning Ordinance:	58-20A

**Applicant Presentation:**

Chair Skoog-Harvey reminded the Board that a public hearing was held on this application in March. She read Village Code Section 58-20A and asked the applicant if he was able to find any documentation that shows the property used as a two-family before 1983. S. Zarnstorff had provided documentation from the Village files that show the property used as a two-family since 1988.

D. Campbell said he was unable to find any documentation.

**Continued Board discussion on application:**

Member Wagenhauser referred to the 1963 map provided by S. Zarnstorff and asked for clarification on which house it is. Member Wagenhauser said it appears to have been a single family until 1988. A building permit application in 1988 has single family crossed off and two-family filled in. S. Zarnstorff said the records indicate that it went from a 418, which is a rooming house to a two-family.

Member Bush said the applicant's father, Arden Campbell, owned it and converted it. D. Campbell said this is correct. He said his father had help from SUNY. Chair Skoog-Harvey said if it went from a 418 to

a 220 it would have had to go for a use variance since that zoning district did not permit two-family.

She said the Business Use District allows for two-family when there is a first floor commercial element. There is no commercial element here. Deputy Village Attorney Aloï concurred that in 1988 this would have required a use variance. S. Zarnstorff said he does not know the accuracy of the 1963 map. Member Wagenhauser said he is not convinced the right house is identified on the 1963 map.

Member Wagenhauser asked the applicant if his father or long time neighboring property owners could confirm its use in writing. Member Wagenhauser said it certainly would be easier to go from a rooming house to a two-family than vice versa. Member Wagenhauser said the documents before them show the property as a single family before 1988. Chair Skoog-Harvey said the applicant has stated that his father converted it to a two-family in 1988. it would be awfully hard for the ZBA to grant the application without some good documentation to the contrary. Member Wagenhauser agreed and shared that in the early 1980's the Village Board at that time said no more multi-family conversions. The ZBA has to apply the code.

D. Campbell said the Building Inspector at that time required that the property be converted to a two-family.

S. Zarnstorff circulated a letter from 1985 from SUNY BSG that infers the 418 status at that time. Chair

Skoog-Harvey said the Village records would be double-checked. There are two issues at hand. The first is that the application for a continuance of a non-conforming use as a two-family cannot be granted as is. The ZBA cannot validate it. The second would be the need for a use variance. Chair Skoog-  
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Harvey suggested the applicant get a written statement from his father. The next step would be to apply for a use variance.

⇒ Member Bush moved, Member Wagenhauser seconded, unanimously carried that the application be tabled until June 27, 2005.

**Public Hearings:**

**NEW BUSINESS:**

1. Application of:      Name:                      Robert H. & Sheila G. Peterson  
                                    Address:                      19 Mercer Street  
                                    Tax Map #:                      068.75-1-21  
                                    Property Code:                      230  
                                    Zoning:                      Residential  
                                    Lot size:                      .25 acre  
                                    Purpose:                      continuance of non-conforming use as a 3 family  
                                    Provision of Zoning Ordinance: 58-20A

**Applicant Presentation:**

R. Peterson said he purchased the property in 1980 from Ted Graf on a V.A. loan. At that time the federal government inspected it. In 1985 the dilapidated garage was demolished. S. Zarnstorff's recent inspection showed 3 electric boxes, separate utilities, water and heat. Former Mayor Jim Stull and his wife Neala provided written statements that her parents purchased it in 1961. R. Peterson said he tried finding out from Niagara Mohawk the age of the electric meters by serial numbers. They had no records because they are now digital.

⇒ At 7:30pm Member Manitsas moved, Member Bush seconded, unanimously carried that the regular meeting be closed and the public hearing be opened.

**Public Comment:**

Matt Mortellaro of Allen Street said he has no issue if the occupancy is to stay exactly as it is. He said he has heard there is a plan to do work on the property such as adding an addition and parking. He said increasing the number of tenants would be detrimental to the neighborhood. If that is not the case, he has no objection.

⇒ Member Bush moved, Member Manitsas seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

**Continued Board discussion on application:**

Member Switzer said the same applicant has an application later this evening before the Planning Board for a driveway / parking expansion. Member Wagenhauser suggested Mr. Mortellaro stay to hear that application.

Member Bush said it appears to have been converted to a 3 family in the 1960's. R. Peterson said according to the Stull's, it was even before that. Member Wagenhauser referred to an August 1999 letter from then Assessor/Building Inspector Weber correcting the tax roll from a 220 to a 230. R. Peterson said an appraiser caught this when he tried to refinance. Member Wagenhauser said he has no problem. All seems to be in order. Chair Skoog-Harvey asked if it has consistently been used as a three-family since he purchased it in 1980. R. Peterson said yes. He and his wife live on the first floor.

The second and third floors are apartments. Chair Skoog-Harvey commented that the documents even show that 3 stoves and such came with the purchase.

Chair Skoog-Harvey asked R. Peterson if he could comment on any plans for an addition. R. Peterson said the house is approximately 3,000 square feet and he is planning to add a 750 square foot family room / master suite in the back for his use, not the tenants. This will be where the parking area is. He does not wish to increase the parking, just relocate it by extending the drive. He hopes to build a two-car garage next year and side the house white.

S. Zarnstorff said he looked for historic material that could date the construction. The electric boxes are late 1950's vintage, certainly not done recently. He said he is comfortable with the numerous documents that the Village and the property owner has that establishes a long use as a three-family.

Chair Skoog-Harvey agreed, but commented that the only inconsistency is that the 1963 map shows it as a two-family. However the written statement from the neighbors place it as a three-family in 1961.

R.

Peterson said the Stull's told him that when they married they rented the first floor where he is.

Chair Skoog-Harvey asked if this is the only multi-family home on Mercer Street. R. Peterson said yes.

He said he knows of 2 on Chappel Street. Chair Skoog-Harvey said it has certainly been a long-term owner-occupied property. R. Peterson said it would be hard to give up such a quiet spot. He said the only problem is that the street gets filled with SUNY students parking there. He said he plans to retire

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there. The income from the two apartments would be more than social security.

Chair Skoog-Harvey said she feels he has successfully established consistent use as a three-family. She said she imagines the neighbors appreciate that this rental property is owner-occupied and would like to condition that the property remain owner-occupied, but does not believe the ZBA can do so.

Deputy Village Attorney Aloï said that couldn't be a condition of approval. Member Bush commented that it is a nice looking house.

⇒ Member Wagenhauser moved, Member Switzer seconded, unanimously carried that the application for continuance of a non-conforming use as a three-family be granted on the condition that all codes are met and a certificate of occupancy is obtained.

2. Application of:	Name:	A. David & Betty A. Joseph
	Address:	11 Holley Street
	Tax Map #:	068.60-5-12
	Property Code:	411
	Zoning:	Business
	Lot size:	.15 acre
	Purpose:	continuance of non-conforming use as a 4 family
	Provision of Zoning Ordinance:	58-20A

**Applicant Presentation:**

Village Attorney O'Toole stated for the record that this applicant is a client of his.

D. Joseph said the owners in 1968 converted the property and then sold it. In October 1974 the land contract was satisfied and 4 furnaces, 4 hot water tanks, etc. were put in. They are 4 self-contained units. An electric inspection in 1976 shows it as a four-family as do certificates of occupancy through the years.

**Public Comment:**

⇒ At 7:47pm Member Manitsas moved, Member Wagenhauser seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

Joan Hamlin of 50 Park Avenue asked if this property is the one who plans to sell some land to Nativity Church. Chair Skoog-Harvey said no, that is 17 Holley Street.

⇒ Member Bush moved, Member Manitsas seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

**Continued Board discussion on application:**

Member Wagenhauser said a document from 1983 showed the property as a 418, which is a rooming house. D. Joseph said it has had 3 different property codes over time and he was told they all meant the same thing. Member Wagenhauser said in 1975 and 1978 it shows as a four-family then in 1983 it shows as a rooming house. He asked when D. Joseph purchased it and if it has always been used as a

four-family in his time. D. Joseph said he purchased it in 1969 and it has always been 4 units. S. Zarnstorff said the document in 1983 could have been a typo. Member Wagenhauser agreed and said it is hard to believe that they knocked the walls down for a year or two and then put them back up.

Chair Skoog-Harvey referred to correspondence in 2004 about a driveway expansion. She asked if that issue had been resolved. D. Joseph said yes. He plans to put a retaining wall in to contain the parking so it doesn't spread. Member Wagenhauser complimented the siding. Chair Skoog-Harvey commented that it looks like the applicant has put a lot of work into the property. Member Bush asked if they share the driveway to the west. D. Joseph said yes. He said in retrospect it was a mistake to allow

it. He is considering placing a retaining wall there as well.

⇒ Member Bush moved, Member Manitsas seconded, unanimously carried that the application for continuance of a non-conforming use as a four-family be granted on the condition that all codes are met and a certificate of occupancy is obtained.

**Adjournment:**

→ Member Manitsas moved, Member Bush seconded, unanimously carried that the meeting be adjourned at 7:55pm.

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Leslie Ann Morelli, Village Clerk