

Meeting of the Village of Brockport Zoning Board of Appeals was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Thursday, November 6, 2014, 7:00pm.

PRESENT: Chair John Bush, Vice Chair Robert Duff, Member Douglas Wolcott, Member Sal Sciremammano, Member Laurence Vaughan (arrived 7:50pm), Building/Zoning Officer David J. Miller, Clerk Pamela Krahe.

EXCUSED (from first portion of meeting): Member Laurence Vaughan

ALSO PRESENT: Jimmy Zisovski, Stephen Zisovski, Joan Hamlin, William Andrews, Jr., Josephine Matela, Valerie Ciciotti, John La Pierre, Bill Andrews, Bill Andrews, Jr., Fred Webster, David Strabel, Pam Ketchum, Rich Miller, Phoebe McCauley, Jason Dauenhauer, Kristin Heffernan, Maggie La Pierre, Eddie Webster, and several others who did not sign in.

CALL TO ORDER: Chair Bush called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Bush introduced board members, explained Member Vaughan would be late, and called for a motion to approve minutes.

➔ Member Sciremammano moved, Member Wolcott seconded, unanimously carried to approve the minutes of the meeting held October 2, 2014 as written.

NEXT MEETING: Thursday, December 4, 2014 at 7:00pm if needed. Deadline Wednesday, November 12, at 12noon. No meeting is scheduled for Thursday, January 1, 2015 due to the holiday.

Public Hearings:

NEW BUSINESS:

1. Name: James Zisovski
Address: 56 College Street
Tax Map #: 068.60-6-20
Property Code: 411 - apartments
Zoning: O-Residential
Lot size: 0.25 acres
Purpose: To obtain a special residential dumpster use permit
Provision of Zoning Ordinance: Chapter 21-5 B as follows:

Within exclusively used residential property, no dumpsters shall be used for the collection or storage of garbage or rubbish. However, any proposed and/or existing trash dumpsters within residential neighborhoods or residentially used property which are in existence prior to the adoption of this chapter are permitted so long as the property owner obtains a special residential dumpster use permit granted by the Zoning Board of Appeals.

Applicant Presentation:

Mr. David Strabel, on behalf of James Zisovski, explained Zisovski has a dumpster located on the driveway of 56 College. Upon inspection in August, it was noted the dumpster needed to be enclosed. According to Chapter 21-5 B, if you have an existing dumpster in a residential area, you must obtain a special use permit. Mr. Zisovski wants to continue use of the dumpster, which came with the property when he purchased it in December 2012. He has receipts for the dumpster from the previous owner back to 1990. In addition to looking for a special permit to keep the dumpster, Mr. Zisovski will also fence it. Strabel explained he asked the Village Clerk to look up the code language prior to adoption of the revision, and it includes the word "proposed" and states that pre-existing dumpsters need a special use permit. Chair Bush mentioned he had looked in an old code book and Section B was all that was in the old code. Strabel reiterated they have proof the dumpster was there since 1990 and the code was edited in 2009.

Public Comment:

➔ Member Wolcott moved, Member Sciremammano seconded, unanimously carried that the regular meeting be closed and the public hearing be opened at 7:10 pm.

- Josephine Matela, 76 Adams Street. Asked why it is needed, how many tenants are in that dwelling, and whether garbage from other properties will be put in this dumpster. Stated she is against dumpsters in residential areas.

- John La Pierre, 45 College Street. Read a letter dated November 6, 2014 from Constance Coapman, 57 College Street as follows:

With regard to the Village of Brockport Legal Notice regarding property at 56 College Street: The existing dumpster becomes an eyesore on our residential street.

#1. With the many college rentals, why is a dumpster required, especially in full view of neighbors and people passing by?

#2. It is frequently left uncovered.

#3. And does [sic] pose a problem for Suburban to empty it with cars obstructing it.

We all have to take care of our own refuse in a way to keep our street neat.

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Mr. La Pierre then commented that, as trustee, he walked with CEO Miller in August during the Codes Office street-by-street inspections, but the dumpster was gone so he thought the problem was gone. He went on to read:

The area of College Street where we live is residential.

- *House numbers 39, 40, 45, 46, 51 and 57 are single family homes [tax class 210- 1 family residential].*
- *House number 60 is a 2 family home [tax class 220-2 family residential].*
- *Houses numbers 52, 56 [requesting the permit], and 61 are apartment houses [tax class 411- Apartment].*

Certainly there is a preponderance of single family homes.

It is notable that 52 and 61 are also apartment houses operating without dumpsters.

Also notable is #60, is also owned by the same owner. Is this new dumpster a collection point for their garbage too?

It is also noteworthy that the prior dumpster that was present until last spring, was close to the street, did not have a fence around it as required by code [21-5-A]. And there was certainly early-morning noise once a week when [another] garbage truck went to collect the foul contents.

- Phoebe McCauley. Stated she previously owned this property and a couple of others with her husband, they always had a dumpster and kept their properties nice for 30 years. She was always able to get Certificates of Occupancy with the dumpster in place. A big woodchuck used to come and tip over totes, so she went to a dumpster, which was needed when she repaired damage from tenants. She mentioned you can get a dumpster with a lid. She was never given a hard time about her rentals. She understands the need to enclose, but don't take the dumpster away. She doesn't want neighbors to have to look at trash; she would rather have it in a dumpster. She wondered why Jimmy is having a problem now that he has bought the property, when she never had any issues. She thinks it's unfair to do this to Jimmy and slander him on the computer. She returned from Florida when she heard all this.
- Brian Warner, 55 Main St., Apt. 2. He used to have a girlfriend who lived there 20 years ago and there was a dumpster at the time. Raccoons would tip over totes. Students are young adults and don't always act like adults. They might not get trash out on time. If it's in a dumpster, it's better. Thinks there is social elitism – maybe even fascism – in Brockport which may lead to dissolution. He will be active in dissolution efforts.
- Jason Dauenhauer, 40 College Street. Why can't there be totes? The landlord of 32 puts out totes on Tuesday night. He is just trying to understand why some want a dumpster vs. totes.
- William Andrews, Jr., 39 College Street. Moved here August 2001. The character of the neighborhood is very different today than back then. There were 9 owner-occupied homes and 5 rentals. Now it is reversed. Every weekend while school is in session there is disruption. He would not change his decision to move here, but having a huge dumpster visible, changes the character from residential to something else. Every incremental change makes people wonder. It degrades the overall character. He asked the board to look at the situation and ask if it is reasonable. It's another apple in the basket of why you may not want to live here. Even if there is a fence around it, you'd know what it is and it attracts vermin. You want to encourage more families to buy here – that's what will make Brockport grow. And it's not elitist.
- Valerie Ciciotti, 104 East Avenue. Wants the board, in considering this section of the code, to remember the wording "...any...existing trash dumpsters...which are in existence prior to the adoption of this chapter are permitted so long as the property owner obtains a special residential dumpster use permit..." If the owner can show the previous owner's receipts back to 1990, then the previous owner should have applied for and received a special use permit. How can this board grant a special use permit now if there was never one issued previously? She advises taking it to the attorney to see if this would be considered an illegal dumpster. If so, then it was in violation, and how could the board now grant a special use permit. She suggests adjourning until speaking with the attorney.
- Pam Ketchum, 91 Park Avenue. Stated she and husband own 6 rentals in the village and she understands the large amount of trash when cleaning out and renovating. She read the following:
As a real estate agent, owner of 6 rental properties and village resident for 30 years, I say no to dumpsters on residential properties.
 - *If a property is being used properly, with no overcrowding, there is no need to collect an inappropriate, huge amount of garbage. 56 College St has 4 apts; one studio and three 1 bdrm apts. Two of the 1 bdrm apts can accommodate 2 people. At the most, there can be 6 people living in that house. I have a house with 8 people living legally in it and though we pay for 2 totes, the tenants barely fill half of one toter each week. They also use the recycling boxes.*

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- *Dumpsters give a commercial “air” to a residential property; every week, a large garbage truck goes down the driveway, into the backyard to lift and empty the dumpster(s). It is not inviting for families, especially those with little children, and not appealing for a neighboring homeowner to have a garbage truck drive within feet of their house to take out the neighbor’s garbage.*
- *Dumpsters reduce green space in the residential lot.*
- *56 College St. is not in the business district, it is in a residential district.*
- *Dumpsters seem to encourage transporting refuse from one house to another; collecting from multiple addresses and creating a garbage operation – a lot more commotion than just having a couple of totes that are taken out to the street once a week.*
- *The owner of 56 College also owns 60-62 College St, right next door, plus 113 Utica St. and 51 Monroe Ave. behind the two College St. properties. A dumpster might be a convenient, cost effective way to manage garbage but it changes the character of the neighborhood, turning residential to commercial. Soon the green space between the 4 properties will be gone and it will be a large parking lot similar to what has been observed behind 21 and 25 College St. (Ed Kelly’s house and Mary Jane Holmes’ single family houses) or behind 30, 36 and 40 State St. Backyards turn into cut-throughs. Drivers can go into the driveway at 51 Monroe and come out the driveway at 56 College. What could be better! How do you think Eileen Ryerse, owner of the lovely house at 61 Monroe which is surrounded by Jimmy Z’s 4 rental properties, feels about all of this? If I owned 61 Monroe, the lovely single family home that David Wagenhauser restored years ago, I would not be happy with this development. I also may be very discouraged and want to leave the neighborhood.*
- *The job of a rental property owner is to maintain and manage the rental property, to make the property an asset to the neighborhood, not pull it down. Putting a fence around a dumpster is not going to diminish the effect of a huge dump truck roaring down the driveway and into the neighbor’s back yard once a week and the huge collection of garbage and all that it attracts; animals, insects and more “extra” garbage.*
- *Garbage pick-up is required for each address not clumping properties. If the zoning board sets this precedent, it will open the door for monopolies in neighborhoods, especially in the historic core. King St. and several other streets are almost all rentals. They are examples of lowered standards and no one around to complain and require that the laws of this village are enforced. Single family homeowners have fled these neighborhoods. We need to turn this trend around and allowing dumpsters and commercializing the area is not going to help.*
- *Dumpsters do not encourage the habit of recycling. There appears to be no option for recycling with dumpsters.*

We have not had effective code enforcement for almost 50 years. Finally, we have the chance to maintain and enforce standards and provide a variety of quality, safe housing options in residential neighborhoods where property owners (and tenants) can invest time and effort and take pride that they are building a good future for themselves and the Village of Brockport. The point is not for absentee uninvolved landlords to squeeze out the last penny in the easiest, least time consuming way possible all for their own benefit. It has been said that rentals should not stick out; they should blend in to create an appealing village landscape.

- Rich Miller, Kendall, NY. Reiterated that Mrs. McCauley was never cited for having an illegal dumpster. He wondered which is better – one dumpster as a central collection point or 12 totes. He noted the when Mr. Andrews moved here, that dumpster was there. This dumpster could be placed out of view so there won’t be 12 totes placed at the street. Totes are as big a mess as dumpsters. One truck goes down the street to get totes one day, another truck another day. He abhors the fact that these are referred to as student rentals. They are people, too, and they get the same services. Mrs. McCauley always kept her properties immaculate. The college was here 100 years ago. If people don’t want to live in a college town, then they shouldn’t move here. If Jimmy didn’t own property down the street from 2 village trustees and a village judge, it wouldn’t be this mess.
- ➔ Member Duff moved, Member Sciremammano seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

Continued Board discussion on application:

Chair Bush read the applicable code as follows:

Chapter 21-5 B. Within exclusively used residential property, no dumpsters shall be used for the collection or storage of garbage or rubbish. However, any proposed and/or existing trash dumpsters within residential neighborhoods or residentially used property which are in existence prior to the adoption of this chapter are permitted so long as the property owner obtains a special

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residential dumpster use permit granted by the Zoning Board of Appeals.

The board inquired if there is a dumpster there now; Mr. Strabel clarified there are 2 dumpsters – one at 52 for construction and Jimmy's at 56 sits on the driveway of 56.

Chair Bush explained in Chapter 21-3 of the code book, the definition of garbage contains the word putrescent, whereas refuse/rubbish is defined as non-putrescent and includes items such as paper, wood, glass, etc. He looked up trash in the dictionary and it is defined as refuse and rubbish. Looking at 21-5 B of the code, when it talks about a trash dumpster, it implies refuse and rubbish, not garbage. Strabel pointed out 21-5 B does say "storage of garbage or rubbish."

Member Sciremammano asked if a permit stays with the house forever as the code is not clear on that point. Strabel opined that variances granted from Chapter 58 stick with the property forever, but he doesn't know about Chapter 21. The general consensus of the board and CEO Miller is that permits are individual and do not stay with the property. Strabel asked about any prior permits for 56 College.

7:50 Member Vaughan arrived.

Member Sciremammano noted he had lived on King Street before, and remembers much trash all about. If a tote is used, you roll it out and roll it back. There is an option available in the code to get a temporary dumpster when cleaning out or renovating. Those who abuse codes are the reason we have to enforce so rigidly. As a property owner, you should ask your tenants to keep their totes tidy.

The board asked if the dumpster is picked up weekly; Mr. Zisovski affirmed.

Member Wolcott asked the applicant if his 4 properties in that neighborhood all use the one dumpster; Mr. Zisovski affirmed. Member Wolcott pointed out this is then a collection point for 4 properties. Mrs. McCauley interjected that the students walked over to the dumpster with their garbage.

Member Duff asked Mr. Strabel if he knew if the previous owner applied for a special use permit; Strabel didn't know. Member Duff emphasized this is here and now and the board needs to act on it. There are 6 tenants in 56 and the dumpster is a 5-yarder. Duff asked how much garbage 6 tenants create; Strabel guessed maybe half of that. It was guessed one would need 3-4 totes for 6 people. Member Duff inquired how the applicant will make sure access to the dumpster won't be blocked; Strabel replied they will come up with a plan and an enclosure to make sure it is compliant. Mr. Strabel agreed the dumpster and enclosure must be policed. Member Duff feels a dumpster does not fit the character of this neighborhood and is troubled that others use this dumpster.

Chair Bush reiterated that a dumpster is being abused when it is used by others in the neighborhood. He is not a fan of dumpsters that others can use. Strabel mentioned if this one is enclosed, it will mitigate some of that.

Member Vaughan called dumpsters a necessary evil. You have to weigh if you want 6, 8, or 10 totes or one dumpster. There has to be a solution that fits in the code and the neighborhood. We must think about what's going to be best for the neighborhood.

Member Duff suggested tabling this application until we see if a special use permit was previously issued and to see if all 4 use variance points are met. He would also like to see a drawing of the lot and where the dumpster would go. Strabel countered this application is for a permit in Chapter 21, not a variance from Chapter 58. CEO Miller affirmed this is not for a variance but, rather, for a special use permit, which can be revoked. Member Wolcott asked if there are other houses or apartments that use a dumpster for just one unit. Miller noted the Codes office is in the process of compiling a list of dumpsters in residential zones and who has come before the ZBA for the special use permit. This particular dumpster was there, then it was removed. When it was placed back at the end of summer, is when this issue came up.

Member Vaughan opined students generate more trash than regular residential homes.

In his ZBA files at home, Chair Bush discovered an agenda where Jonathan Knapp had applied for a permit for a dumpster at 46 Monroe in 2010 or 2011. Rich Miller declared that had been approved provided the owner provided suitable screening. Chair Bush stated if a dumpster is approved, CEO Miller will police it and make sure it is screened properly.

Audience members chimed in. Jo Matela said she doesn't want dumpsters in residential areas. She's not against Jimmy, she's against dumpsters. Brian Warner noted dumpsters are metal, totes are plastic.

Member Sciremammano summarized by asking if you would rather see a dumpster out your window or totes. He thinks that's the essence. Back in 1968, the village didn't care if you had a dumpster or not.

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Now they do. Rules are here for a reason. We have to go by the code. He suggested audience member go to a village board meeting and let them know certain codes are fuzzy. Chair Bush concurred, saying he lived on King Street when they were all owner-occupied. He said we have to stop what's happening with the garbage, and Codes has a big job.

Member Sciremammano summarized the points the board should consider as follows: look at the legality of this dumpster, where the dumpster would be placed and how it will be fenced, if a special use permit was ever issued, and how many dumpsters are in residential areas. Pam Ketchum added not only where the dumpsters are, but if they are legal.

Mr. La Pierre voiced he thought we were talking about a dumpster for 56 College Street, but now it has become a collection point.

Member Sciremammano clarified this one dumpster is our issue, not how many dumpsters are in the village. We have to consider the neighborhood and what the neighbors want.

Mr. Zisovski summarized that he's not trying to change anything and he respects others' opinions. He was asked to come here, and so he did. He doesn't go against codes. It's not a one-way street. Those against the application made their opinions known. If a change has to be made, we will make it. Thank you for taking my opinion into consideration. I appreciate you giving us time to look over things. Chair Bush reiterated the board didn't realize this was a collection point, but it is not anything new as the dumpster has been there 20 years. Member Vaughan agreed. Using dumpsters as collection points is not new.

Member Duff noted when the board meets next, he would like to see justification of using a dumpster vs. totes, a property map noting the location of the dumpster and the fencing, how a truck can get to the dumpster without disturbing neighbors by blowing a horn, a plan for how Jimmy Z's other properties will have their garbage taken care of if the dumpster is not approved, and how many units and tenants are in Mr. Zisovski's properties.

→ Member Wolcott moved, Member Vaughan seconded, unanimously carried, that the application be tabled until the December 4 meeting.

Roll call vote:

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| Member Wolcott | Aye |
| Member Sciremammano | Aye |
| Member Duff | Aye |
| Member Vaughan | Aye |
| Chair Bush | Aye |

Adjournment:

→ Member Vaughan moved, Member Sciremammano seconded, unanimously carried that the meeting be adjourned at 8:31pm.

Pamela W. Krahe, Clerk