

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES

March 8, 2016

#### **Members**

Jeff Pangburn, Chairman  
Bob Seward III  
Joyce Lapham  
John Conway, Jr  
Matt Ostiguy

#### **Also Present:**

George Hoffman, Attorney  
Donna Moran, Stenographer  
Alison Lovely, ZBA Secretary

#### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Pangburn called the meeting to order and determined a quorum of five (5) members were present. Lou Polsinello III & Domenico Pirrotta were absent. Introductions were made.

#### **OLD BUSINESS:**

NONE

#### **NEW BUSINESS:**

#### **PUBLIC HEARINGS:**

Chairman Pangburn offered to the applicant to conduct both Public Hearings simultaneously at which the applicant agreed as long as separate evidence could be entered and considered for each property, at which Chairman Pangburn agreed. It was noted that the resolutions would still be handled individually.

#### **ZBA Appeal #2016-01 & ZBA Appeal #2016-02– Hilton –9 & 11 New York Avenue - Use Variance for conversion of a single family dwelling to a two family dwelling**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendations
- Planning Board recommendation for both applications
- Supplemental report for both applications from Planning Board member Jim Giordano
- ZBA Applications, Short EAF's, Denials, Use Variance Criteria's
- Bldg. Permit Application's
- Letter from Wendy Curtis & owner Robert Hilton
- Letter from Ed & Courtney DiPaolo & owner Robert Hilton
- Letter from Art & Harleen Hilton
- Petition from Sharon Ingoldsby and letter verifying all signatures valid

Russ Hilton, who is the son of the applicant, Robert Hilton, presented the application to the Board and addressed the four Use Variance Criteria. Russ stated that 11 New York Avenue has been a two family for forty plus years and 9 New York Avenue has been a two family for about five years. Russ stated that this is his parent's livelihood, they have no retirement. His parents can't manage the properties any longer so he is taking over. Russ stated that there are approximately six other two family homes in a three block radius. Chairman Pangburn entered exhibit #2016-01A & #2016-02A which was financial evidence of the approximate cash flow from each property. Chairman Pangburn asked the Board if they had any questions.

- Chairman Pangburn asked if Russ's parents have ever tried to sell their properties as single family homes. He stated that they have not.
- John Conway wanted clarification on the type of work to be done for the estimated amount of \$1,000, as indicated on the Building Permit application for 9 New York Avenue & \$600 as indicated on the Building Permit application for 11 New York Avenue. Russ stated that he wasn't sure.
- Chairman Pangburn asked the applicant to confirm his statement that 11 New York Avenue has been listed on the tax rolls as a single family home which he did.
- Bob Seward asked the applicant to confirm his statement that 9 New York Avenue has been a two family for 5 years and 11 New York for 40 years. Russ stated that yes they have been. Are there 2 tenants in each of them now? Russ stated that no, there is just one tenant in each house. Also if each house had its own utilities? Russ stated there is only one set for each.
- Matt Ostiguy asked for a clarification of the retaining wall in front of the garage door. Russ stated that the wall and berm were constructed there to divert water from entering the house.

Chairman Pangburn asked if there was anyone to speak in favor or against.

- Sharon Ingoldsby of 13 New York Avenue stated she is in opposition and referred to the petition she collected against the variances. She provided a picture of the retaining wall in front of 11 New York Avenue given to Board. Chairman Pangburn labeled it as Exhibit #2016-02 B. She said there was a gas leak at 9 New York Avenue and then the Town got involved due to National Grid involvement and too many violations. She said it is uncomfortable even walking past the houses to the park anymore due to the tenants. These properties negatively affect the character of the neighborhood. Numerous unregistered vehicles. Skunks rummaging through refuse left in yards, which also smell in the summer. These two properties are negatively affecting the other homes in the neighborhood.
- Keylla of 20 New York Avenue requests the variances be denied. She tried to sell her house for six months with no luck. The after showing reports from realtors said prospective buyers didn't want to purchase and live next to the Hilton properties. She lives near another duplex that Hilton owns and had to build a \$10,000 fence to shield her yard from the house. She looked at an old mattress for years and there was a sex offender living there as well.
- Eva Donnelly of 16 New Jersey Avenue feels that the failure to properly plan for retirement should not be a reason to grant the variances. She noted it's not fair if they've only been paying taxes on a single family home all of these years. She felt this should be tabled, as there are many, many issues that the property owner should try to address first.

- Mary Hart's mom lives at 16 New York Avenue and she is concerned with her safety. Grew up in neighborhood and noted these homes have garbage everywhere while other homes all up kept. She requested variances be denied.
- John Farrell of 19 New York Avenue stated they have lived there for 30 years. He had a problem trying to sell his house and also had issues with one of the tenants who threatened him. There was also a Bronco that sat in the driveway of 11 New York Avenue and caught fire. He noted the properties have been cobbled up into two families, are unsafe, and the properties are in disrepair. He opposes the variances.
- Chris Cacciotti of 26 New York Avenue has lived there for 25 years with family that dates to 1934 and opposes both of the use variances. He purchased his single family in a single-family neighborhood and feels it should stay that way. The duplexes are downgrading the neighborhood, as tenants have no respect. The police are always down there.

Chairman Pangburn asked if anyone else had any comments. Russ Hilton stated that the tenants have been worse in the past five years and that his father hasn't been able to keep up with the properties. They plan to try to improve this.

- Sharon Ingoldsby asked if Russ's father still owns Hilton Music and other properties in Albany.
- A man spoke and stated that he would like to hear the actual plan of how Russ is going to fix up the properties since the building applications only indicated minimal investment was planned.
- John Farrell stated that since the 11 New York Avenue has been a two family for years that he hopes the Town goes after them for back taxes or whatever.
- Someone asked when a decision would be made. Chairman Pangburn stated tonight.

Chairman Pangburn asked Russ Hilton if he wanted to address the questions raised about the plan for maintenance and when he took the properties over. Russ stated that his father no longer owns Hilton music, he does own several other rental properties, they are in the process of finishing upgrades to their other properties and he plans to make a list of what needs to be done to these two houses, soffits, porches, yard work. He envisions snow removal and yard work would be contracted out. Russ stated he took over January 1<sup>st</sup>.

**A motion to close the public hearing was made by Bob Seward– Seconded by Joyce Lapham. Motion carried by a 5-0 vote.**

**ZBA Appeal #2016-03– Almy –1 Eileen Drive –Special Use Permit for in law area**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- Supplemental draft report from Planning Board member Mike Bottillo
- ZBA Application, Short EAF, Denial, Special Use Permit Criteria
- Bldg Permit Application

Mark Almy presented the application to the Board. He stated that he wants to make an in-law area in his home for him and his wife and his daughter is going to live in the rest of the house. Chairman Pangburn asked if there was adequate parking. Mark Almay stated that there is as they had 6 adults in the house at one time. Chairman Pangburn asked the Board if anyone had any questions. Chairman Pangburn asked if Mark Always knew that once he no longer lives in the 600 square foot in law area that the house reverts back to a single family dwelling. Mark Almay stated that yes he knew. Chairman Pangburn asked if there was anyone present to speak in favor or opposition of the application.

- Mary Sandstorm of 1499 Red Mill Road stated that she supports the applicant's proposal.

There was no one in opposition. Chairman Pangburn asked there were any questions from the Board. There were none.

**A motion to close the public hearing was made by Matt Ostiguy-- Seconded by John Conway. Motion carried by a 5-0 vote.**

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2016-01 Hilton -9 New York Avenue -Use Variance for conversion of a single family dwelling to a two family dwelling**

Chairman Pangburn read and filled out Part II and Part III of the Short EAF. This project is an unlisted action under SEQR.

**A motion was made by Jeff Pangburn--The Zoning Board of Appeals determines based on the information above and any supporting documentation that the proposed action will not result in any significant adverse environmental impacts. Seconded by Joyce Lapham. Motion carried by a 5-0 vote.**

**ZBA Appeal #2016-02-- Hilton -11 New York Avenue -Use Variance for conversion of a single family dwelling to a two family dwelling**

Chairman Pangburn read and filled out Part II and Part III of the Short EAF. This project is an unlisted action under SEQR.

**A motion was made by Jeff Pangburn--The Zoning Board of Appeals determines based on the information above and any supporting documentation that the proposed action will not result in any significant adverse environmental impacts. Seconded by Joyce Lapham. Motion carried by a 5-0 vote.**

**ZBA Appeal #2016-03-- Almy -1 Eileen Drive --Special Use Permit for in law area**

This is a type II Action-there is no further action necessary.

**WORKSHOPS:**

**ZBA Appeal #2016-01 Hilton -9 New York Avenue -Use Variance for conversion of a single family dwelling to a two family dwelling**

**Resolved**, that the Board of Appeals makes the following findings of fact:

1. That the applicant has not shown that they cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence.
2. That the alleged hardship relating to the property in question is not unique and does apply to a substantial portion of the district or neighborhood; as demonstrated by evidence of the applicant at the hearing tonight.
3. That the restricted use variance, if granted, will alter the essential character of the neighborhood, as demonstrated by numerous complaints from neighbors who have lived next to the proposed condition for the past numerous years.
4. That the alleged hardship has been self-created.

**Resolved**, that the application for a Use Variance for the construction of a two family dwelling in the R-2 Zoning District at 9 New York Avenue be **DENIED**.

This resolution was moved by Jeff Pangburn and seconded by John Conway Jr. at a meeting duly held on March 8, 2016.

A vote was taken as follows:

John Conway Jr. Yes  
Joyce Lapham Yes  
Matt Ostiguy Yes  
Jeff Pangburn Yes  
Domenico Pirrotta Absent  
Lou Polsinello III Absent  
Bob Seward III Yes

Motion carried by a 5-0 vote

**ZBA Appeal #2016-02-- Hilton --11 New York Avenue -Use Variance for conversion of a single family dwelling to a two family dwelling**

**Resolved**, That the Board of Appeals makes the following findings of fact:

1. That the applicant has not shown that they cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence.
2. That the alleged hardship relating to the property in question is not unique and does apply to a substantial portion of the district or neighborhood; as demonstrated by evidence of the applicant during the public hearing.
3. That the restricted use variance, if granted, will alter the essential character of the neighborhood, as demonstrated by numerous complaints of neighbors in the neighborhood as entered into the public hearing tonight.
4. That the alleged hardship has been self-created.

**Resolved**, that the application for a Use Variance for the construction of a two family dwelling in the R-2 Zoning District at 11 New York Avenue be **DENIED**.

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on March 8, 2016.

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried by a 5-0 vote

**ZBA Appeal #2016-03-- Almy --1 Eileen Drive --Special Use Permit for in law area**

**Resolved**, that the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined to be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; therefore, be it

**Resolved**, that the application for a Special Use Permit for the construction of a 600 square foot in-law area to their dwelling be **GRANTED** for an initial period of 18 months with the following condition:

1. That once the in-law no longer occupies the in-law area, that it cannot be used as rental property and reverts back to a single family residence.

This resolution was moved by Bob Seward III and seconded by Joyce Lapham at a meeting duly held on March 8, 2016

*(Discussion)*

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried by a 5-0 vote

**NEXT MEETING:** The next meeting will be held on March 22, 2016

**APPROVAL OF MINUTES:**

The meeting minutes from the February 9, 2016 meeting postponed due to a quorum issue

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward. Second by Joyce Lapham. Motion Carried by a 5-0 vote.

Respectfully Submitted

  
Alison Lovely, ZBA Secretary