

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on August 30, 2023

Present: Chairwoman Anna Stanko, Member James Jurcsak, Member John Luciani, Member Kamran Parwana, Alternate Member Mary Price-Bush, Attorney Stefanie Bitter

Absent: Member Kevin McDonough

Chairwoman Stanko called the meeting to order at 7:00 pm.

The meeting began with the Pledge of Allegiance.

Approval of Minutes:

Chairwoman Stanko requested approval of the minutes from the May 31, 2023 Zoning Board of Appeals meeting. A motion was made by Member Luciani and seconded by Member Jurczak to approve the minutes. The motion carried.

Old Business:

Continuation of Area Variance application for:

Property SBL: 216.23-1-5.1 (101 Fairground Ave.) – James and Kelly Whittredge – Applicant wishes to subdivide property, creating a lot which will not meet minimum lot width (frontage).

Chairwoman Stanko stated that this application was tabled from a previous meeting. The applicants are asking for a frontage variance. Applicant James Whittredge (101 Fairground Avenue) deferred to his nephew, Bret Bogan (1315 Midline Road). Chairwoman Stanko gave a brief update on this application. At the previous meeting, the applicant came forward and asked for a variance of 65' frontage width. In an R1 the minimum lot frontage is 80'. She had a couple notes from that meeting. Member Luciani asked if they could do a 40' variance, splitting the difference between the 80' of required frontage. Mr. Bogan stated that 18' is the most he wanted to do. This will leave enough room for Lions Club parking. Chairwoman Stanko stated that at the September 28, 2022 meeting, this application was declared as a Type 2 action and therefore exempt from SEQR. She asked if a variance was granted for the other house

that was added on the property. Building Inspector LaFountain and Applicant James Whittredge both said they did not know.

Chairwoman Stanko opened Public Comment.

Gina Marozzi (10 Old Glory Lane) representing Frank and Rose Marie Rossi – She stated they have no problem with this project and welcome a young family into the village.

Paul Gadoua (168 Prospect Street) – He stated that having another house in back is concerning.

Chairwoman Stanko closed Public Comment.

Member Parwana asked why was this tabled from the last time. Chairwoman Stanko replied that we wanted a survey. Mr. Bogan stated that he didn't want to pay for a survey if the 18' frontage is not granted. If 18' is not granted, we will not build on the lot. If it is granted, he will get a survey done. Chairwoman Stanko wanted to confirm that the applicant is requesting 18' frontage. Mr. Bogan replied yes.

Alternate Member Price-Bush asked if there is enough room for emergency vehicles to turn around in back. Mr. Bogan replied yes. Member Luciani asked what the driveway width would be. Mr. Bogan replied 10'. Attorney Bitter asked what the driveway length would be. Mr. Bogan replied 270'. Chairwoman Stanko asked what the property acreage would be. Mr. Bogan replied .3 acres, which is approximately 14,250 square feet. The proposed house is a 1,600 square foot single story ranch. Member Luciani asked if the neighbors were notified. Clerk Kathleen Barner replied yes.

Kelly Whittredge (101 Fairground Avenue) stated that they don't want to give up more of their yard than 18' of frontage, especially if they have to sell it in the future. If more of the yard is given to the variance, they just lost their yard, and they don't want to. Chairwoman Stanko stated that currently they own 1.64 acres of land, and you are only giving up a third of an acre with what is proposed now. It looks like you still have a lot of yard left.

Member Parwana made a motion that the Village of Ballston Spa Zoning Board of Appeals grant an area variance for property at 101 Fairground Avenue to allow a reduced minimum lot width from 80' to 18' for discussion. Attorney Bitter read the following criteria.

Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored and why they are not feasible. The applicant stated the proposed lot does not have minimum lot width at the road.

Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons: The applicant stated that there is a pre-existing single-family home in similar location at the back of property. This is a residential area. Member Bush asked if there is a buffer of trees on the property now. Mr. Bogan stated that there is a split rail fence, then a field, and then a pool now. He stated there are no trees now.

Whether the variance is substantial. The requested variance is not substantial for the following reasons: The home will be located in the back of the property and the variance is required for driveway access. Chairwoman Stanko stated that the variance is substantial. However, the proposed house is located in the back, and it has plenty of room as stated by the Building Inspector for emergency access.

Whether the variance will have adverse physical or environmental effects on neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons: The applicant stated that is minimal change noted from the street view.

Whether the alleged difficulty was self-created. Explain whether the alleged difficulty was or was not self-created: The applicant stated there was no self-created difficulty. Attorney Bitter stated that it actually is self-created.

Chairwoman Stanko asked for Member Parwana's motion to be read back. The motion is as follows: Member Parwana made a motion that the Village of Ballston Spa Zoning Board of Appeals grant an area variance for property at 101 Fairground Avenue to allow a reduced minimum lot width from 80' to 18' for discussion, giving 62' of relief, pending an actual survey. Building Inspector LaFountain stated that the survey must show the building envelope on the map. The motion was seconded by Member Jurcsak. The motion carried.

New Business:

Request for a Use Variance application for:

Property SBL: 216.33-2-28 (103 East High Street) – Josue Flores and John Boyle – Applicants request a use variance for property to create 4 units in the present structure.

Stephanie Ferradino is here on behalf of the applicants Josue Flores and John Boyle. They purchased this property in August 2021. The house was built in the 1920's. In 2014 there was a fire, and while it was not enough damage to demolish the building, it did a fair amount of damage. It is zoned as a single-family residence in an R1 district. The property was purchased by her clients with the intent to continue to use as 8 apartments that were there under the non-conforming provisions. Prior to the purchase, they met with the Historic District Commission and the prior owner and discussed their proposal. They purchased the property and started work on the interior of the property, making sure to secure the doors and windows, only to be halted by the Village because they needed a demolition permit. They started redesigning plans to bring them up to code for 4 units. The Village said they needed to complete a Site Plan Review Application because 4 units is not an allowable use. They were told they also need a use variance. They have been working with the Village all along from prior to purchase to when they were told they need a use variance. The structure is 9,000 square feet. It is currently an unsafe structure, and she would argue that the Village would benefit from granting a use variance. Without a use variance, she doubts there would be any allowable use for a building of this size. She went through the use variance criteria (see attached Use Variance Narrative).

Chairwoman Stanko stated that she had a couple questions before going further. She was confused about some of the statements made here. It was said that the applicants met with the Village and that it was indicated that 4 units were OK. Chairwoman Stanko stated that she was in one of the meetings with the applicants with the Planning Board Chair and the Mayor and that at no point in that meeting they said 4 units was desirable. Attorney Ferradino stated it was her sense that occurred after her clients purchased the property. Chairwoman Stanko asked Attorney Ferradino what their plan is for parking. Attorney Ferradino replied that 8 spots could be accommodated for with parking on Eastern Avenue and some on site parking spots. Her clients are open to possibilities from what the municipality wants. She noted that code requires 2 spaces per unit. Chairwoman Stanko asked if the owners tried to sell the property. Mr. Boyle replied yes, however because of this process not being complete, the buyer walked away. Chairwoman Stanko stated that it has been said that the applicants were unaware that this was in an R1 and that they were unaware of the expiration of the pre-existing, non-conforming use. Attorney Ferradino replied that they were unaware of the expiration of the pre-existing, non-conforming use. She said the first time this was brought up was when they were pretty far along with the plans. Building Inspector LaFountain asked if

she had a timeline of the contacts with the Village. She replied she did not. Mr. Flores stated that sometime at the end of the year 2021 was his first contact with the Village regarding the plans.

Chairwoman Stanko opened Public Comment.

Ken Fish (97 East High Street) – He stated that he has concerns about the parking, the decks on top of the building looking into his property, and that the property has not been maintained for snow removal and lawn cutting. He stated that they have exhibited zero ability to maintain the property. He stated he is opposed.

Rory O'Connor (199 Milton Avenue) - He stated that this was a self-created hardship on their part. He asked if they asked the seller what it was zoned for. Being contractors, they should have had the contract include contingent on governmental approval. Mr. Boyle replied they certainly did not do their due diligence when purchasing this property. This is the first type of property they purchased for this type of use. The contract did say that if they wanted to do 8 apartments that they would have to go through the variance process, and we missed that. He said it was their bad in respect to keeping the property up. It was just out of sight, out of mind on their part. He stated that they want to bring back this property into being a beautiful building in the neighborhood. He noted that they are open to suggestions on uses for this property. Chairwoman Stanko noted that he said he is a developer, so she asked what kind of projects does he develop. Mr. Boyle replied restaurants. They have not done any residential developments yet. Chairwoman Stanko asked who the contractor would be. Mr. Boyle said they will be doing the contracting and maintenance of the property. Chairwoman Stanko asked what assurance do we have that the property will be kept up in light of the fact that you don't take care of the building now. Mr. Boyle said her point is well taken.

Keith Lewis (38 East High Street) – He stated that this building has been empty for 9 years and is an embarrassment to the Village. It has depreciated our property value. He hopes that the Board gives complete consideration in the way that it has for other use variances that were for members of the Village.

Steve Springer (90 East High Street) - He asked what they anticipate as your rent. Mr. Boyle replied \$2100 to \$2400 per month per unit for a 2 bedroom, 2 ½ bath luxury apartments with screened in porches back and front, leaving the historical facade intact. Mr. Springer asked if they considered turning it into condominiums with individual owners? Mr. Boyle replied yes, that would be a desirable outcome from their perspective. Mr. Springer stated that we do not need an out of control rental property in the Village. He asked if they are looking for senior citizens or large families.

Chairwoman Stanko asked the applicants if they are considering selling condos instead of running apartments. Attorney Ferrandino stated they are willing to listen to ideas.

Christine Fitzpatrick (31 Chapman Street) – She is supportive of this project, noting that the blight would be improved by turning this into 4 units. She feels there is a market for that. She stated that the property must be maintained.

Tim Walz (98 Eastern Avenue) – He stated that they bought their house in 2004 and that their driveway butts up against the property line. There have been many issues of violence in the past and they dealt with all that. Since the fire, things have quieted down. He wants it to be fixed before he plans on selling his property. He asked how does the Board control this if they do approve the variance? Does the variance if granted go along with the property if they decide to sell it? How is the parking managed? He stated that he has had contact with the owners when they purchased the property and has had a few emails back and forth with them. He feels the current owners must maintain it properly. He stated that he doesn't buy the out of sight, out of mind statement that the owners previously made. Chairwoman Stanko stated that the Building Inspector would be knocking on their door if something were to go array if the project was approved. Attorney Ferradino stated that this is a multi-faceted project and that if the use variance is granted, the next step is to go a Site Plan Application with the Planning Board. If it does go thru a public hearing, the neighbors would have a chance to be part of that application as well.

Carrie Chapman (56 East High Street) – She stated that she has been looking at it for 9 years, a burnt out, derelict, blight on the street. She wants something done with the property that is attractive and pleasant. She noted that it is dragging down their property values.

Pete Martin (20 Chesterwood Court) – He stated that he walks by the property every day. He feels something must be done. He feels the neighbors' concerns must be addressed. He said if the variance is granted, the Planning Board will do a review of the Site Plan Application.

Lori Acee (25 Eastern Avenue) – She also walks by the property every day. She is in support of this owners' interest in making this a beautiful property. She said we should take this opportunity seriously.

Building Inspector Dave LaFountain stated that he is neither for or against this project. He stated that he does have an issue with Stephanie's presentation which may have left the door open with the Village that we did something wrong with these people in the beginning. He said he can assure you that the previous owner knew the status of the building, what the status of the non-conforming use was, and as soon as we got an application from them, I can show you the timeline, we notified them right away. We have that in writing. I can assure you there was nothing done wrong on the Village side.

Chairwoman Stanko closed Public Comment.

Attorney Bitter stated that for SEQR purposes, this is considered an unlisted action since a use variance is actually being requested. The applicant did submit the short form. All of that has been responded to. In conjunction with those responses, we need to do a Part Two Impact Assessment so that we can get to a conclusion of SEQR.

Attorney Bitter asked the following questions:

- (1) Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Answer – No.
- (2) Will the proposed action result in a change in the use or intensity of use of land? Answer – No.
- (3) Will the proposed action impair the character or quality of the existing community? Answer – No.
- (4) Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Answer – No.
- (5) Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? Answer No.
- (6) Will the proposed action cause an increase in the use of energy, and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? Answer – No
- (7) Will the proposed action impact existing public/private water supplies or public/private wastewater treatment utilities? Answer – No.
- (8) Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? Answer – No.
- (9) Will the proposed action result in an adverse change to natural resources? Answer – No.
- (10) Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Answer – No.
- (11) Will the proposed action create a hazard to environmental resources or human health? Answer – No.

Member Jurcsak made a motion to make this a negative declaration for SEQR. Member Luciani seconded the motion. The motion carried.

Chairwoman Stanko told Attorney Ferradino that the Board needs financials and she recommends that the Board table the application pending receipt of financials. Alternate Member Price-Bush stated she is happy the applicant is trying to do this and

that it should help bring the neighborhood back. Member Parwana stated that the details presented were very clear. Member Jurcsak stated that he had a concern about the second story apartments being screened, wondering if they were not screened before. Member Luciani made a motion to table this application pending financial information receipt. Alternate Member Price-Bush seconded the motion. The motion carried.

Attorney Bitter wanted the record to show that the Chair stepped down and recused herself and Member Luciani stepped in as Chair.

Request for an Area Variance application for:

Property SBL: 203.81-1-21 (32 Kent Street) – Anna and David Stanko – Applicants are requesting a variance to install an inground pool within the required distance from the primary structure.

Applicant Anna Stanko stated that 16 years ago they got a building permit for an above ground pool and were never informed by the previous Building Inspector that they needed a variance to put it where it is. They also got a building permit to put up a deck 8 or 9 years ago and were never informed they needed a variance. The current above ground pool is located 8' from the primary structure. The State code requires 10' from the primary structure and the Village code requires 15' from the primary structure. The pool is 16 years old and we have decided to replace it with a 14' x 28' inground pool. The current pool is located 8' from the house. They would like to put it 10' from the current structure and center it near the garage. To do this, a variance of 7' is requested. Applicant Dave Stanko noted that many homes in the area have pools close to the houses.

Acting Chairman Luciani opened Public Comment.

Liz Kormos (89 Hyde Blvd.) - She asked if there will be some sort of a fence around it. Anna Stanko stated that there is already a fence around the property now. She noted there will be an alarm in the pool.

Acting Chairman Luciani closed Public Comment.

Attorney Bitter declared this a Type 2 Action and therefore is exempt from SEQR. Alternate Member Price-Bush asked if there was going to be any patio around it. Anna Stanko replied that there will be concrete around the pool.

Alternate Member Price-Bush made a motion to grant a variance of 7' of relief on the west side of 32 Kent Street. Attorney Bitter read the criteria questions and answers.

- **Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible:**

We plan to center the pool behind the garage which is 24' wide, thereby actually needing only a variance of 3'-4' – however we want to be on the safe side with unknowns once the contractor gets digging.

- **Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:**

The current above ground pool has been located on the property for 16 years.

- **Whether the variance is substantial:**

The current pool is located 8' from the existing house.

- **Whether the variance will have adverse physical or environmental effects on neighborhood or district for the following reasons:**

The inground pool will be visibly more pleasing.

- **Whether the alleged difficulty was self-created.**

Obviously self-created but prefer to install an inground pool versus replacing the existing above ground pool – less maintenance as we age.

The motion was seconded by Member Jurcsak. The motion carried. Chairwoman Stanko came back to the table.

Request to Appeal the Decision of the Historic District Commission for:

Property SBL:216.40-1-20 (25 East High Street) – Teri O'Connor – Applicant is appealing the decision of the Historic District Commission.

Chairwoman Stanko stated that this appeal is the first one the ZBA has had. Attorney Bitter stated that we should start with the Building Inspector to help understand the process.

Building Inspector LaFountain stated that the Historic District Commission was given a building permit application from Teri O'Connor to convert a garage to a dwelling unit. This went thru the process and was eventually granted. The Historic District Commission made their ruling that the project must comply with. As the project went along, it was brought to his attention that they were not following the rules of the Historic District Commission. After a conversation with Attorney Bitter, it was agreed that it would fall onto the Building Department to enforce the Historic District Commission rulings. At that point, we met with the contractor and told him the situation, and from that we will not be able to issue a certificate of occupancy on the project without compliance with the Historic District Commission ruling. At that time, we looked at some of the things that had been done relating to building code, we allowed a certificate of occupancy. The only stumbling block in his mind was that they didn't install clapboard siding. They put vinyl siding on the building. That is a direct contrast as to what the Historic District Commission asked them to do. They are looking to get the Historic District Commission overruled to allow vinyl siding instead of clapboard installed.

Steve Springer (9 East High Street) is representing the Historic District Commission. The Commission met with the owners to discuss the list of requirements needed in order to be in compliance with the district. The list also included windows, moldings, and fascia around the building. These requirements only affected the exterior of the structure. These requirements were completely ignored. The property owners did not contact them with requests for changes or to indicate that there were any problems. They received a complaint from one of the 84 residents of the Historic District. The Building Inspector was contacted and he went over and verified that the work wasn't in compliance with what we had talked about. This did not happen until after the work was completed and by that point it was well past the 30 day appeal time that the Zoning Board has for making any changes. Our legal obligation is to confer with property owners in the district to ensure that any changes made that are visible from the street maintain the architectural features and character of the building and neighborhood of

the Historic District. The building behind the house should match the array of moldings that the main house has within reason. In this case, it was significantly different. It is their intention to be careful not to lose the essence of the Historic District one by one. They would like the Zoning Board of Appeals to vote on sending the owners back to the Historic District Commission to compromise on a solution to this appeal which was created by the owners not following the original recommendations. They are suggesting a compromise for a cost effective screen visible from the street to provide privacy for the dwelling unit. There has been concern from Historic District residents that they are concerned about the way the work has been done on the property. Chairwoman Stanko asked if he had any letters from the residents. Mr. Springer replied no, that nobody wants to be the bad guy to their neighbors. Chairwoman Stanko asked for clarification that he has received 1 complaint out of the 84 residents in the Historic District. Mr. Springer replied that is correct. He noted that the 1 complaint they received was the reason they contacted the Building Inspector to take a look at the work because they did not think it was in compliance.

Attorney Bitter stated that what we are reviewing is in Article 8.

Teri O'Connor thanked the Board for granting the variance. She stated that the Historic District Commission gives opinions, not rulings. When this complaint came in and I found out that the Historic District Commission was not happy, my general contractor, Rory O'Connor contacted John Cromie and asked to meet to discuss the situation. Mr. Cromie ignored it, then a Stop Work Order was received. Vinyl siding is all over the place in this neighborhood. Why am I being harassed and have a Stop Work Order being put on my house? Is it political or personal revenge? There is no doubt in my mind. No one else in the Village has ever been treated this way. Why is only her vinyl siding offensive? The vinyl was put on because it was cost effective and that she has a large bee issue. She fails to see how that ruins the look of the neighborhood, especially when there is vinyl siding directly across the street. Her daughter, Keegan, lives in the main house but couldn't be here tonight to help her collect her thoughts. Her family has a long history in the Village and would be appalled at how she is being treated. The Historic District Commission is singling her out because of her job, political affiliation, and personal vendetta. Years ago when she was putting a new roof on, a member of the Historic District came onto her neighbor's property, grabbed a piece of the roofing material, and started screaming at the roofer. She has been nothing but harassed since this happened. She can take the vinyl siding off and go back to the board and batten that was really ugly and comply if needed. She said they can pay for the carpenter too. Her daughter and her husband are planning on painting the house when they get the funds and the property will be stunning.

Rory O'Connor (199 Milton Ave) stated he was the general contractor on this project. He noted that he has great deal of respect for historic preservation and that he has historically restored properties in the Village that are not in the Historic District in the past. As he reads our code, Section 205-37 Standards to guide the Commission, I would like to highlight some of the items that relate to this project. It states if the Commission specifically finds that application of the following standards is inappropriate or would create undue hardship for the applicant. They want to be consistent in design with the architectural styles of the building. I agree absolutely, but in this case there is a small problem. The barn that was built in the back has no resemblance to the building in front. It was built probably 40 years ago and is not a Victorian building. In 205.37 (C) it states that the Commission provides guidelines. Tonight we have heard 3 different words from the Commission. We have heard recommendations, requirements, and guidelines. To him, those are open and arbitrary and not dictates. Yet, on October 13 when they met with Mrs. O'Connor, they stated as follows: It was the opinion of the Commission that the picture provided depicts design elements that are incompatible with the main residence on the property, but elements from the current residence could be applied to the garage façade to make the modification compatible with surrounding architecture. So it's an opinion that can be applied. The next paragraph states that it was felt by the Commission that corner boards, freize and water board be installed on the south side of the remodeled garage to match those on the house. Instead of vertical siding, the south elevation is to be sided with wooded clapboards with a reveal that is the same as on the house. Mr. O'Connor stated that he had never seen a wooded clapboard. A number of things that were stated after this meeting that should have been done as part of the renovation of this building. Item numbers 2,3,4,5, and 6 were done to code and he handed out pictures of what it looks like. Vinyl was put on because vinyl doesn't rot. When we looked at the list of what we thought was recommended, we looked at the cost of clapboard siding versus vinyl. He noted that Teri is not a wealthy woman, and neither is her family. This project was done with a lot of volunteer labor. A lot of people contributed to the project at no cost in order to get this project completed. The cost to do the vinyl was \$2200 complete with labor. The cost to put clapboard up was \$7854. It was his decision, as the project manager, in order to save her money that we install the vinyl and make it look as good as we possibly could. The Historic District Commission never had an opportunity to look at this because they never agreed to meet with him. He wanted to talk to them about possible compromises, but they wouldn't respond in any kind. The Building Inspector told him that their decision was absolutely final. The applicant had no other choice under our zoning but to make an appeal and that's why they are here tonight. He passed out artist renderings of what the main building will look like when painted, and he thinks it looks pretty similar to what was done to the garage or barn, whatever you want to call it. It is intended to paint the sides of the barn white to tie this all together. There was no intent on his part to do anything to offend the Historic District Commission and their goals and rules. Teri is living in the space with a conditional certificate of occupancy pending the outcome of this appeal. He witnessed vinyl siding on a building

in the back of the house directly across the street as well as many on the street. He feels the decision was arbitrary and capricious. He read out loud the definition: Arbitrary and capricious means willful and unreasonable action taken without consideration and regard for the facts, circumstances and the rights of other people of the parties involved. The Historic District Commission told the Building Inspector that their decision was final and there will be no discussion. Their suggestion that screening was very popular in Victorian homes as an option is absurd. We are here to appeal and overturn the Historic District Commission and to issue Teri a certificate of occupancy. Teri stated that she feels the fence is a safety hazard. She said that if somebody is hiding behind the fence, she can't see him. Mr. O'Connor stated that he has letters of support from the neighbors, and he would like them entered into the record.

Mr. Springer stated that they did not schedule a meeting with Rory because it was an enforcement issue at that point as opposed to design issue.

Attorney Bitter stated that it is a clarity issue, and that it needs to be clearer for the next person. For the past few months, she has been trying to have both sides communicate, and she understands there have been a lot of additional factors involved in this matter. It is not as clear as what this book says. Only what the book says should matter. This clearly has been a historic problem, not just as it is here. The actual processes is not clear. She feels we should consider this as an isolated incident and educate ourselves moving forward. This is her opinion, and the Board should make their own decision.

Chairwoman Stanko added that she has been on the Board for quite some time, and she thought that the Historic District Commission was an advisory role. Some of that confusion also comes in from an email from John Cromie asking the Commission members if they should meet in our advisory role. So that is from your chairman indicating that the Commission has an advisory role. Another email from John stated that when he wrote the law he created a few shoals while writing the law. She stated that she as well as other past members of the Board, always felt the Historic District Commission advised, not ruled or brought forth regulations. She agrees with counsel that this was uncharted territory. She hopes that things can be cleared up from now on, but that there are a lot of other things in the recommendations. We do have 3 letters from neighbors supporting this and not complaining about vinyl siding. The fact that there are so many houses with vinyl siding in the neighborhood, one on the home of a previous resident of the Historic District, I think we really need to look at this as to how we are going to move forward.

Member Jurcsak stated that he was not aware of so many vinyl houses in the Historic District right on East High Street.

Member Parwana stated no matter what the decision will be, we need to recognize that this is what the Historic District Commission is supposed to be doing. We shouldn't minimize the work that the Commission does just because things haven't been followed in the past. He stated that he went past the applicant's house and couldn't see the difference on the siding from the street. Member Jurcsak stated that historic buildings must be maintained and preserved going forward and the Historic District Commission is just doing their job.

Chairwoman Stanko opened Public Comment.

Mayor Rossi (63 East Saratoga Avenue) – There are 2 things that were raised from all of this. One is that self enforcement is trespassing and not allowed. A Board member cannot go on someone's property without permission. Number 2 is that because of the gravity and legalities of some of the issues coming up, I asked the question "Do we have counsel attending the Historic District Commission" much like a Planning Board or a Zoning Board counsel? The answer was generally no. Attorney Bitter has been asked to do that for the Historic District Commission in the future. Thank you to Stefanie for taking this so seriously and for speaking so calmly on this matter. He takes no position on this application.

Keith Lewis (38 East High Street) – He lives directly across the street and actually looks at the property every day. Some of the other vinyl siding in the neighborhood is kind of in keeping with the style of the building. He was not part of the conversation on the recommendations on this property. He did not participate in any conversations. Rory O'Connor is the Planning Chair. When Rory doesn't believe when he looks at the price on something that he is doing deserves a call to the Historic District Commission, how does the Historic District Commission get anyone in the Historic District to take them seriously? Why didn't he contact the Historic District Commission and say they needed to change? That was the time to make a call and say "hey this doesn't work and we need to make some adjustments". Tonight, an applicant was asked for hard financials and the Chairwoman tabled this until they provided the financials. He listened to the recording of the meeting of her application for variance, and you didn't ask her for financials, yet she was given approval. 103 East High Street was tabled because no financials were available. She got special treatment. He believes that the Building Inspector can confirm that there were 2 other stop work orders placed on properties on East High Street, that did stop their work and met to comply with the guidelines. Get rid of the Historic District Commission if you are not going to allow them to participate the way they are supposed to. We need to apply the rules fairly to everyone.

John Cromie – The Historic District Commission does have an advisory role. When they get a building permit they must make a determination of how a property should be structured so that it is compatible with other buildings in the District. The Historic District Commission should have an attorney. A conflict arises when an appeal goes back to the Board that the same attorney serves on. Having an appeal go to a local Zoning Board or Planning Board rather than the Supreme Court makes the process easier. It looks like that is being put aside, and if you want to appeal the Zoning Board or the Planning Board, that you have to go to the Supreme Court. There is not as much communication with applicants as there should be. Therefore, architectural elevations and drawings will need to be required in the future at an extra cost to the applicants. We did not respond to Rory because they assumed the responsibility was in the Building Inspector's hands. We were not trying to brush him off. The double windows that they suggested were impossible to build, which they didn't realize that. They never came back to us to make changes. They did what they wanted to do, which was unfortunate.

Building Inspector LaFountain stated that as a result of this, we had many meetings and discussions, and I made a decision going forward that any time the Historic District Commission makes a ruling, they will give us very specific information as part of their requirements or recommendations. When this first came up to me, John came to my office and said things were not going the way they wanted them to over there. I told him I would get a note off to Rory and we would talk about it. John said there was nothing to talk about, the ruling had been done. He stressed that the meeting was done and that there was no discussion to be done. If we looked back at that day and had a discussion, we might not be here.

Don Traver (31 East High Street) – He served on the Historic District under 2 mayors. He had also applied for a variance for a garage that he had built that has vinyl siding and was approved in 2016. He stated that the Historic District is an advisory and has 15 days from when the Building Inspector gives an application to the Historic District Commission to review and submit recommendations. You have to look at that timeline. Chairwoman Stanko asked if he was suggesting that the 15 days was not met. Mr. Traver replied he thought it was 21 days or something like that. Chairwoman Stanko asked Mr. Cromie if the 15 day requirement was met. He said he did not remember. She asked if he could find documentation as to dates with the Building Inspector and supply it to the Board tomorrow. Mr. Cromie replied he will look for it.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko stated that on advice of counsel, we are going to table this discussion. We would like the Historic District Commission Chair to meet with the applicant to try to hammer this out. Mr. Cromie said he does not have permission to speak for the Commission and that their next meeting isn't until September 18. Chairwoman Stanko asked if it was possible that they could all meet sooner with the applicant to discuss some of the regulations in Section 205.38 which identifies the rulings in Article 8. Attorney Bitter stated that for the record she is willing to be present if you want her to be there, but will recuse herself if requested, and you can bring in special counsel. She stated that she wants everyone to be comfortable. Chairwoman Stanko asked if that was agreeable to all parties. Teri said she will get back to her.

Rory O'Connor stated that there is an appeal before this Board, and he doesn't understand why there isn't a vote. Chairwoman Stanko replied that was under advice of counsel. Attorney Bitter stated that this will be a good opportunity for the parties to have a discussion to try to settle this, but if not, the next Board meeting will be the last Friday of the month.

Gina Marozzi (10 Old Glory Lane) asked if there is a confusion in the law. She said if there is a confusion in the law, doesn't the benefit of the doubt go to the applicant? Attorney Bitter said that was a very good point. She said there is not a confusion of the law, there is a confusion of the process.

Member Parwana made a motion to table this appeal. Member Jurcsak seconded the motion. The motion carried.

Meeting Adjourned:

A motion to adjourn was made by Member Parwana, seconded by Member Luciani. The motion carried. The meeting was adjourned at 9:45pm.

Respectively submitted,

Kathleen Barner
Building Department Clerk