

ZONING BOARD OF APPEALS

OCTOBER 19, 2020 MEETING OF ZONING BOARD OF APPEALS  
REMOTE ZOOM MEETING

MINUTES

**Present:** Chairman Ron Nolland, Kathleen Insley, Scott DeMane, Kellie Porter, Meghan Weeden, P.J. Whitbeck (alt)  
Kyle Burdo, Housing Code Inspector

**Absent:** Elizabeth Jent (alt)

**Also present:** Eli Schwartzberg  
Nellie Bonville  
Joseph Whalen  
Maria Hurteau  
Katherine Grabda  
Krystal Lewis  
Corey Auerbach (legal), Barclay-Damon  
Matt Miller, Director of Community Development  
Turner Bradford, McFarland-Johnson  
Charles Gottlieb, Whiteman, Osterman & Hanna LLP  
Stephen Mackenzie, Mackenzie Architects  
Dean DeVito, Prime Companies

Mr. Nolland called the meeting to order at 7:01 PM.

<b>APPEAL</b>	<b>APPLICANT</b>	<b>REQUEST</b>
2198	VILAS HOME, LLC 61 BEEKMAN STREET	CLASS B VARIANCE REQUEST TO EXTEND A PREVIOUSLY GRANTED CLASS B VARIANCE
2199	VILAS HOME, LLC 61 BEEKMAN STREET	SPECIAL USE PERMIT REQUEST TO EXTEND A PREVIOUSLY GRANTED SPECIAL USE PERMIT
2250	NELLIE BONVILLE 22 HILLCREST AVENUE	CLASS B AREA VARIANCE REQUEST TO BUILD A SMALL MUD ROOM EXTENDING INTO SIDE YARD SETBACK
2251	JOSEPH WHALEN 25 PROSPECT AVENUE	CLASS B AREA VARIANCE REQUEST TO COVER EXISTING CONCRETE PATIO AND STEPS WITH PRESSURE-TREATED DECK AND EXTEND LENGTH OF DECK INTO FRONT YARD SETBACK
2252	MARIA HURTEAU 6 SOUTH ACRES ROAD	SPECIAL USE PERMIT TO INSTALL 8-FOOT HIGH FENCING IN SIDE YARD

2253	KATHERINE GRABDA AND KRYSTAL LEWIS 22 GUY WAY	CLASS B AREA VARIANCE TO USE PORTION OF BUILDING AS A PRIVATE FITNESS STUDIO – 2 PRINCIPAL PRIMARY BUILDINGS ON ONE LOT
2232	CITY OF PLATTSBURGH 22 DURKEE STREET	SPECIAL USE PERMIT TO AMEND THE BOUNDARIES OF AN EXISTING PLANNED UNIT DEVELOPMENT AND A SPECIAL USE PERMIT FOR USE OF APARTMENTS ON THE FIRST FLOOR OF A MULTI-STORY BUILDING WITHIN A PLANNED UNIT DEVELOPMENT

The agenda will be heard in the following order:

- Appeal 2198
- Appeal 2199
- Appeal 2250
- Appeal 2251
- Appeal 2252
- Appeal 2253
- Appeal 2232

The **first** and **second** items heard were, Appeal #2198, Vilas Home LLC, 61 Beekman Street, request to extend a previously granted class B variance and Appeal #2199, Vilas Home LLC, 61 Beekman Street, request to extend a previously granted special use permit.

City of Plattsburgh Planning Board, as lead agency, approved SEQR for this Vilas Home Project.

Board and applicant discussion of need for extension of Class B area for parking and Special Use Permits for the Vilas Home at 61 Beekman Street. No changes in plan since approval in April 2020. Applicant asking for a year extension, board discussion. Applicant agrees to a 6 month extension.

*Public Comment: None.*

**MOTION:**

By: S. DeMane, seconded by: K. Porter

*IN REGARD TO APPEAL #2198, VILAS HOME LLC, 61 BEEKMAN STREET, TO EXTEND THE PREVIOUSLY GRANTED CLASS B VARIANCE AS IT WAS PREVIOUSLY APPROVED FOR A PERIOD OF 6 MONTHS.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

MOTION:

By: S. DeMane, seconded by K. Insley

*IN REGARD TO APPEAL #2199, VILAS HOME, 61 BEEKMAN STREET, TO EXTEND THE PREVIOUSLY GRANTED SPECIAUL USE PERMIT FOR A PERIOD OF 6 MONTHS AS PREVIULSY APPROVED.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED,  
(P.J. Whitbeck (alt) abstained)

The **third** item heard was Appeal #2250, Nellie Bonville, 22 Hillcrest Avenue, Class B area variance request to build a small mudroom extending into side yard setback.

Board and applicant discussion of application and deficiencies. Deficiency is on the south property line, 10 inches short on side yard. S. DeMane and K. Burdo reviewed calculations.

*Public comment: None.*

MOTION:

By: K. Insley, seconded by: M. Weeden

*FOR APPEAL #2250 AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM, THAT IN SECTION 2 NO OR SMALL IMPACT MAY OCCUR BE CHECKED FOR ITEMS 1-11 AND THE CHAIR BE AUTOHORIZED TO CHECK THE SECOND BOX THAT THIS PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIROMENTAL IMPACT AND SIGN.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

MOTION:

By: S. DeMane, seconded by K. Insley

*IN REGARD TO APPEAL #2250, NELLIE BONVILLE, 22 HILLCREST AVENUE, TO APPROVE A SMALL ADDITION EXTENDING 58 INCHES OFF THE SOUTH SIDE OF HER HOME THAT CAUSES HER SIDE LOT AGGREGATE TO BE DEFICIENT BY 10 INCHES.*

ALL IN FAVOR: 5

OPPOSED: 0  
(P.J. Whitbeck (alt) abstained)

MOTION PASSED

The **fourth** item heard was Appeal #2251, 25 Prospect Avenue, Joseph Whalen, class B area variance request to cover existing concrete patio and steps with pressure-treated deck and extend length of deck into side yard setback.

Board, applicant and building inspector staff discussion regarding measurements and deficiencies in side yard with addition of proposed deck.

*Public Comment: None.*

MOTION:

By: K. Porter, seconded by: P.J. Whitbeck

*REGARDING APPEAL #2251, MOTION THAT AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM, AFTER REVIEWING PART 1, THAT THE CHAIR MAY COMPLETE PART 2, CHECKING BOXES 1-11 AND SIGNING THAT THIS PROJECT CREATES LITTLE TO NO ENVIRONMENTAL IMPACT.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(M. Weeden recused)

MOTION:

By: S. DeMane, seconded by: K. Porter

*FOR APPEAL #2251, JOSEPH WHALEN, 25 PROSPECT AVENUE, TO COVER EXISTING CONCRETE PATIO AND STEPS EXTENDING ALONG THE LENGTH OF THE HOUSE, NOT ENCROCHING ON THE FRONT YARD SETBACK, BUT GOING INTO THE AGGREGATE 2.75 FOOT VARIANCE FOR SIDE YARD SETBACK.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(M. Weeden recused)

The **fifth** item heard was Appeal #2252, Maria Hurteau, 6 South Acres Road, Special Use Permit to install 8-foot high fencing in side yard.

Board and applicant discussion regarding length, height and location of 8 foot fencing in side yard.

*Public Comment: None.*

MOTION:

By: K. Insley, seconded by: M. Weeden

*FOR APPEAL #2252, SPECIAL USE PERMIT FOR 8 FOOT FENCE IN THE SIDE YARD, AFTER REVIEW OF ENVIRONMENTAL ASSESSMENT FORM, WE DETERMINE THAT THE PROPOSED ACTION WILL HAVE NO ADVERSE ENVIRONMENTAL IMPACT.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

MOTION:

By: M. Weeden, seconded by: K. Porter

*MOTION TO APPROVE APPEAL #2252, 6 SOUTH ACRES ROAD, SPECIAL USE PERMIT TO INSTALL 8-FOOT HIGH FENCING IN SIDE YARD.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

The **sixth** item heard was Appeal #2253, Katherine Grabda and Krystal Lewis, 22 Guy Way, Class B Area Variance to use portion of building as a private fitness studio – 2 principal primary buildings on one lot.

Board and applicant discussion regarding use of building as a private fitness club. Discussion of building use and parking with board and building inspector staff.

*Public Comment: None.*

MOTION:

By: S. DeMane, seconded by: K. Insley

*IN REGARD TO SHORT ENVIRONMENTAL ASSESSMENT FORM FOR APPEAL #2253 CLASS B VARIANCE, AFTER REVIEW OF PART 1, QUESTIONS 1-11 IN PART 2 MAY BE CHECKED NO OR SMALL IMPACT MAY OCCUR, AND AS A RESULT OF THAT, THE CHAIR MAY CHECK THE BOX AND SIGN IN PART 3 THAT AS A RESULT THERE WILL BE NO SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

MOTION:

By: K. Insley, seconded by: K. Porter

*IN REGARD TO APPEAL #2253, MOTION THAT WE APPROVE A SECOND PRINCIPAL USE ON ONE LOT FOR 22 GUY WAY AS PROPOSED BY THE APPLICANT.*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

The **seventh** item heard was Appeal #2232, City of Plattsburgh, Special Use Permit to amend the boundaries of an existing planned unit development and a special use permit for use of apartments on the first floor of a multistory building within a planned unit development.

Ron Nolland, chair, opens with goals/purpose of tonight's plan review:

1. Determine if this is the final plan and define commercial space.
2. Understand the South lot parking and public parking.
3. Get public comment.
4. Start zoning board getting documents ready, both findings and resolutions for special use permits, so they are ready to be distributed as soon as we can.

Board and applicant discussion of current plan submitted sq.ft. Commercial on September 25, 2020; also submitted to Clinton County Planning Board. Plan includes 109 apartments, 13,400 space, and parking calculations.

Discussion of parking demand calculations.

- **R. Nolland:** Has been suggested that the city keep south lot and Farmer's Market lot. Is it possible to be self-sufficient in north surface lot of project only, without South lot and Farmer's Market?
  - **D. Devito:** Comfortable enough with parking for use on our site. Concession discussed was that the 92 parking spots could be made usable for general public.
- **C.: Gottlieb:** Shared chart summarizing parking from beginning submission to current. Open to idea of parking enforcement measures for private/public parking. Open to hearing other conditions as well.
- **R. Nolland:** Discussion of alternate parking calculations and city code.
- **T. Bradford:** Shared current parking calculations for commercial space. Reduction back to near original plan.
- **S. DeMane:** How much sq.ft. will be restaurant space? **T. Bradford:** 6150 sq.ft. restaurant space (60% customer 40% employee). Either building could accept restaurant space.

Discussion of building first floor apartments, building height:

- **S. DeMane:** It appears in most recent plan, residential space is pulled up toward Durkee along walkway. Possible issue with first floor apartments. **T. Bradford:** Building will remain. Will be parking under this space. **S. Makenzie:** Extra 21 feet for first level at this area, essentially a floor higher.
- **R. Nolland:** Building height change? Allowed 60 feet, 65 original request, height still showing 65 feet. **T. Bradford:** Highest point changed from peaked roof to flat roof, calculation change. **R. Nolland:** Height variations may be factor in findings statement.
- **S. Makenzie:** Presentation of building elevations, placement of apartments, placement of commercial space.
- **R. Nolland:** Question of how many stories current building is, 6 or 5 stories? **S. Makenzie:** Elevation and levels are same as previous plans. **S. Makenzie:** Created openings into the basement/parking, but can be walled off if requested.
- **C. Auerbach:** Question regarding correlating elevations to floor plans. **S. DeMane:** Commercial space shown at sidewalk level, residential space not clearly shown as to level. **S. Makenzie:** Explains level 1 plan as correlates to building elevation for commercial and residential space. **T. Bradford:** Parking enters at grade underneath 1st floor residential. **S. Makenzie:** First level residential on South side is above parking, approximately 10 feet from sidewalk.

Discussion of plan in general:

**R. Nolland:** Trying to verify how plan is different from March plan, appears residential decreased to 109 units, commercial space stayed the same. Not much reaction from applicant regarding City keeping the South lot and Farmer's Market. In general, it would be helpful to submit plans with elevations from all sides of building. No calculations received for civic space left for Farmer's Market area. No discussion about parking at this area.

**R. Nolland:** Questions if everyone on board understands the current plan and/or has questions? – No questions.

**C. Gottlieb:** Would like to impress upon board approving plan with a very set amount of commercial space, residential units, and parking calculations. If approved, if ever changed in future, Prime would have to seek amendments. **D. Devito:** Confident there is plenty of parking on site and would be willing to make the concession of giving up 92 parking spaces at civic site/south lot.

**R. Nolland:** Review of goals of tonight's meeting:

- Define plan.
- Talk about altered plan.
- Talk about control of south lot parking.
- Get public comment.
- Going forward, can work on findings based on current plan.

**M. Miller:** Will get elevation site plans to board tomorrow, and will post to City website.

**C. Auerbach, R. Nolland, D. Devito, C. Gottlieb:** Further discussion regarding clarification of where the first floor residential is so zoning board will know what the special use permitting relates to.

**R. Nolland:** In review, the following will be sent to the zoning board members and posted to the city website:

- Elevations from March and Current.
- Determination from building inspector as to what we are defining as first floor residential that needs to be voted on as far as special use permit application.

*Public comment:*

**Kevin Farrington, engineer/property owner:** *Thanks board for opening public comment. Worried about impact of ability to do business downtown based on this plan. Started as a bad plan, good plan can stand on its own merit. False and incomplete plan. Elevations are missing from elevation drawings. Elevation records are flawed – cannot approve record with knowingly false documents. City parking plan is also flawed, false record. Parking has been all over the map, because the plan has been all over the map. Not all the applicants fault, city had painted applicant into a corner; as when looking at parking you cannot segment, must look at citywide parking plan, and that document is flawed. Last month's decision to have brewery ballooned parking spaces up for commercial/restraint combination, then they changed their mind. Applicant last month said this was a fictitious plan, boards do not review fictitious plans. PUD requirement is for shared parking where there are multi-uses on site. Would argue deviation from standard code parking would not apply here as this site plan does not share parking. In closing, a good plan stands on own legs. The reason we are still here is because instead of developing a good plan, they are trying to spin a bad one.*

**John Seiden, property owner:** *Thanks zoning board for hard work. Owns 33 Durkee Street, will be a business affected the most. Begs that we need geographic parking for this geographic area. In my building we have a financial planner, senior citizens going to doctor's offices. 50 employees in building. Imperative to have parking in that geographic area for folks to have taken time to create business in city. If there is going to be inconvenience it should not be to existing people, but to the applicant. 2m spent on Arnie Pavone Parking Lot, perhaps prime should have designates parking in Pavone lot. Please be sensitive to current business. Do not need businesses going out of business due to parking. It is blatantly unfair for competitor to own all the parking, and my business has none. Suggest take farmers market pavilion down and create parking there. We want business in our community, but we want you to be respectful to people in our community.*

**Debbie Momont:** *Would like to mention no one had any other comments from public from any other application before the zoning board of appeals tonight. The public is speaking out about this plan because is it not working for the public. A few new*

and relevant points include Dean confirming that the city contacted them before the bid, explaining why only 13 business days between information session and proposals due for this development. Homeowners typically give more than that amount of time. The hearing was to discuss apartments on the first floor; if prime can do that, will city allow us to do this as well? I have 2 properties on Bridge Street. It would be certainly easier to rent those first floor spaces as apartments rather than commercial tenants. Proposal has been submitted multiple times. Had it be paid close attention to, would have saved a lot of time, frustration, and waste. City has requested a couple concessions, feel these are reasonable. I do not believe prime should end up owing all parking in that general area. The current plan appears to short our community of a lot of parking spaces that the city has not replaced. Looks to be 357 spaces is going to be a huge hindrance to our community.

**Scott Allen:** This meeting would have been a lot shorter if you had a complete application before you. Spent a lot of time going over things that should have been done before in a single set of plans. I at AES Northeast have need for 30+ parking spaces. I am opposed to giving surface parking lot to Prime. I think that should be kept with city. I think that would result in squandering an opportunity to later build a parking garage in that surface parking lot, which would then allow infill development building of Court Street parking lot, as well as city hall place parking lot. On behalf of PCC, we are still opposed to this project. Since inception basically has been very little change. We are still opposed to it.

Public hearing adjourned by Chair, Ron Nolland.

**R. Nolland:** Feel goals were met tonight regarding defining plan, getting public comment, discussion of applicant's concept of freeing up 92 parking spaces. As a board we are enjoined to perform findings and resolutions together, which will be done through the zoning board's legal counsel, Corey Auerbach.

**MOTION:**

By: S. DeMane, seconded by: P.J. Whitbeck

*TO APPROVE MINUTES FROM AUGUST, 17, 2020 MEETING AS WRITTEN.*

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

Motion to Adjourn:

By: K. Porter, seconded by M. Weeden

Adjourned at 10:15 PM

For the purpose of this meeting, this meeting was audio and video recorded. This is a true and accurate copy and transcription of the discussion and for a more detailed discussion, see the recording.

Lisa Beebie  
Secretary  
Zoning Board of Appeals  
Zoning Board Minutes