



Lot size: .10  
Purpose: continuance of non-conforming use as 2 family  
Provision of Zoning Ordinance Appealed: 58-20 A (1)

**Public Comment:**

Bill Weber questioned whether the ZBA feels they have jurisdiction on these matters and how it came up at time of certificate of occupancy. Chair Skoog-Harvey said the ZBA plans to move forward to a decision on these applications. Attorney Aloï said it is appropriate for non-conforming use to be considered at time of certificate of occupancy. It is on a case-by-case basis and if the non-conforming issue comes up it may be referred to the ZBA. F. Aloï said as he should know, there is a whole menu of items to be looked at when considering a certificate of occupancy. It is also a process of enforcement. Chair Skoog-Harvey said the ZBA's responsibility is to validate the non-conforming use before S. Zarnstorff can issue a certificate of occupancy. B. Weber said he strongly disagrees with their interpretation and said this action is not listed as a power of a Zoning Board of Appeals. Chair Skoog-Harvey asked if this section of the Code was disregarded in the past. B. Weber said no, it was interpreted as expanding a use **physically**, not time wise. He said he does not see the advantage of a timeline. Continuing a non-conforming use means extending it physically, in size.

Tony Perry said he is not sure B. Weber's comments have been adequately addressed. There are 3 duties of a Zoning Board of Appeals: use variances, area variances, and code interpretations. He asked what the ZBA is interpreting in these cases. F. Aloï said they've taken a look at this issue and there is some legal precedent. This will be made available. T. Perry said he had previously recommended to the ZBA that they look into State law and past intent of this section of the Code with the Trustees that enacted it. Chair Skoog-Harvey said the ZBA has conducted a lot of research and received a lot of historical information. The ZBA is trying to validate these non-conforming uses, not eliminate them. T. Perry said it lends itself to the idea that the uses can be taken away, and the ZBA has no authority to take the uses away. F. Aloï said they might not be legal non-conforming uses. T. Perry questioned how it was done in the past. B. Weber said they did not need to go to Section 58-20A1. If they were not in compliance, they would not have gotten a certificate of occupancy. Member Switzer questioned B. Weber why a c of o would say single family home. B. Weber said he did not issue c of o's for single-family homes.

Bill Weber further questioned if the two ZBA members that were absent at the public hearing will be able to vote and if the two ZBA members who own multiple family dwellings in the Village will be able to vote. F. Aloï said yes and he will provide information on that.

**Application #1 - Applicant Presentation:**

Chair Skoog-Harvey shared that the Hart's provided extensive documentation on each of their properties. She invited the Hart's to make any further comments regarding their application that they wished. They had no further comment. Chair Skoog-Harvey asked for clarification from S. Hart as to whether the rental portion of their own home has seen a break of 9 months or more. S. Hart said no. They have recently rented to a family member.

⇒ Member Bush moved, Member Maziarz seconded, unanimously carried that the application be tabled until the next meeting, April 28<sup>th</sup>. Additional applicant documentation and written public comment will be accepted until April 18<sup>th</sup> and then all applicant documentation will be made available for review at the Village Hall until April 28<sup>th</sup>.

**Application #2 – Applicant Presentation:**

Laurel Stritzel provided documentation from her insurance that indicates it being a double since 1986. She asked if she would also have to come back next month and commented that due to time constraints she would prefer to be notified by mail. Chair Skoog-Harvey asked if the applicant or family had any historical floor plans or photographs of the property as a double. The ZBA is looking for anything that documents its physical use when it was first built.

**Public Comment:**

Joe M., a landlord, commented that if a non-conforming use should get taken away, the value of the property goes down. He asked what recourse buyers have against the Village. Chair Skoog-Harvey said he is asking for a legal opinion, which the ZBA cannot render.

⇒Member Manitsas moved, Member Bush seconded, unanimously carried that the application be tabled until the next meeting, April 28<sup>th</sup>. Additional applicant documentation and written public comment will be accepted until April 18<sup>th</sup> and then all applicant documentation will be made available for review at the Village Hall until April 28<sup>th</sup>.

**Application #3 – Applicant Presentation:**

Robert Altman said he looked for papers he thought he had that would help prove his house was a double, but his wife has recently gone blind and must have moved the papers. He said Elaine Bader from Brockport Rentals handles everything for them. He said they have never violated the more than 3

unrelated rule.

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Chair Skoog-Harvey asked if he would drop off any supporting documentation to the Village Clerk by April 18<sup>th</sup>.

**Public Comment:**

Jim Hamlin said he agrees with most of the comments made by the public tonight and at last month's meeting. He said he admits he is the first to criticize landlords, but feels he should speak up when landlords are being treated unfairly. He referred to having served on a committee in 1995 when the "T-District" was repealed. At that time non-conformance was interpreted as the physical degree of non-conformity not a continuance of time. He further said that the Village Code and NYCOM do not really address non-conforming uses. The ZBA has the authority to interpret, grant area variances and use variances.

Tony Perry asked R. Altman who filled out the ZBA application for him. Mr. Altman said he got a letter from Scott Zarnstorff and met with him and Scott filled out the application. T. Perry said Mr. Altman had no idea he was being put through this process. He thought he was getting a c of o.

Chair Skoog-Harvey again made available a checklist of 26 items of information for consideration of applications concerning non-conforming uses. Member Switzer read the list at the last meeting.

⇒Member Bush moved, Member Maziarz seconded, unanimously carried that the application be tabled until the next meeting, April 28<sup>th</sup>. Additional applicant documentation and written public comment will be accepted until April 18<sup>th</sup> and then all applicant documentation will be made available for review at the Village Hall until April 28<sup>th</sup>.

**NEXT MEETING:** Monday, April 28, 2003 at 7:00pm

**Adjournment:**

→ Member Manitsas moved, Member Bush seconded, unanimously carried that the meeting be adjourned at 7:40pm.

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Leslie Ann Morelli, Village Clerk