

**CITY OF NEW BRUNSWICK
BOARD OF ADJUSTMENT
APRIL 28TH, 2014
MINUTES
7:30 p.m.**

I. ROLL CALL

| | |
|---|-----------------------|
| | Nancy Coppola, |
| X | John Cox, |
| X | Margaret Chester |
| X | Sue McElligott |
| X | Doug Sheehan (alt) |
| | Peter Ventrice (alt) |
| | Jose Madera (alt) |
| | Tierream Houser (alt) |
| X | Mike Manzella |
| X | John Zimmerman |
| | Maria Torrisi |

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARDS MARCH 24TH, 2014 MEETING

Motion to Approve: Chester

Second: Manzella

Approved unanimously by voice vote

**V. COMMUNICATIONS AND REPORTS-
Resolutions of Memorialization of Approval**

- A. EGYPTIAN GARDENS, LLC, #Z-2012-11,** Site plan and variance application for the construction of a retail building located at 243-245 George Street, Block 120, Lot 2.01, Zoning District: C-4
 Motion to Approve: Chester
 Second: Manzella

| | Yes | No |
|----------------------|-----|----|
| Nancy Coppola, Chair | | |
| John Cox, Vice Chair | X | |
| Margaret Chester | X | |
| Sue McElligott | | |

| | | |
|-----------------------|---|--|
| Doug Sheehan | X | |
| John Zimmerman | | |
| Maria Torrisi | | |
| Peter Ventrice (alt) | | |
| Jose Madera (alt) | | |
| Tierream Houser (alt) | | |
| Mike Manzella (alt) | X | |

VI. REQUEST FOR RECONSIDERATION

- A. TRCB HOLDINGS THREE, LLC, NU-2013-03**, Certification of a pre-existing legal non-conforming use or structure for the use of the existing property for mixed-use with ground floor residential units located at 151-153 Livingston Avenue, Block 181, Lot 2, Zoning District: C-3A

Mr. Patterson explained that subsequent to their denial, additional information showing the property had been approved as a non-conforming use by City’s zoning officer in 1981 had come to light. Therefore, the non-conforming use application did not need to have been filed. Mr. Aithal said the Board had the power to rescind its previous decision.

Motion To Rescind Denial of Non-Conforming Use Status: Manzella
 Second: Chester

| | Yes | No |
|-----------------------|-----|----|
| Nancy Coppola, Chair | | |
| John Cox, Vice Chair | X | |
| Margaret Chester | X | |
| Sue McElligott | X | |
| Doug Sheehan | X | |
| John Zimmerman | X | |
| Maria Torrisi | | |
| Peter Ventrice (alt) | | |
| Jose Madera (alt) | | |
| Tierream Houser (alt) | | |
| Mike Manzella (alt) | X | |

VII. RESOLUTION OF MEMORIALIZATION RESCINDING PRIOR BOARD ACTION

- A. TRCB HOLDINGS THREE, LLC, NU-2013-03**, Certification of a pre-existing legal non-conforming use or structure for the use of the existing property for mixed-use with ground floor residential units located at 151-153 Livingston Avenue, Block 181, Lot 2, Zoning District: C-3A

Motion To Rescind Denial of Non-Conforming Use Status: Manzella
Second: Chester

| | Yes | No |
|-----------------------|-----|----|
| Nancy Coppola, Chair | | |
| John Cox, Vice Chair | X | |
| Margaret Chester | X | |
| Sue McElligott | X | |
| Doug Sheehan | X | |
| John Zimmerman | X | |
| Maria Torrisi | | |
| Peter Ventrice (alt) | | |
| Jose Madera (alt) | | |
| Tierream Houser (alt) | | |
| Mike Manzella (alt) | X | |

VIII. OLD BUSINESS
None.

IX. NEW BUSINESS

- A. VICTOR FIORE JR, Z-2013-13**, Variance application for the use of the attic as additional bedrooms located at 122 Hamilton Street, Block 47 Lot 15.05, Zoning District: C-3B

Peter Lanfrit, Esq. – as only 6 members are present, he reserves the right to postpone a vote on the application until a future meeting when a 7th member is present.

The proposal is to increase the building area and height to make the 3rd floor habitable space for additional bedrooms.

Victor Fiore, Owner – He purchased the property in 1996 when he was a student at Rutgers. He has operated it as a two-family house since that time. He has made improvements the roof, porch and other features. The 2nd floor apartment is on the 2nd and 3rd floors. It has always been improved space on the 3rd floor. It is not currently being used now.

There are 4 residents in Unit 1 and 5 in Unit 2. It is legal for 10 people per City standards. There are 5 parking permits currently for the building. He doesn't believe all the people who have passes use them. Students know the renting and parking situation when they enter the lease. It is also near the Rutgers bus system.

The proposal is to create 2 bedrooms in the 3rd floor space. He would raise the ceiling height in the stair case and extend the dormer.

The sidewalk on the side encroaches onto the neighbor's property. It is a shared alleyway, but there is no agreement certifying this. He will either get an easement or take out the encroachment.

Siegle – what is the intended occupancy as it could be 16 people if approved.
Fiore – he'd like to have 4 on the 1st floor and 8 on the 2nd floor for a total of 12 occupants.

Patterson – larger occupancies tend to become more unruly as there is less personal responsibility, how will he address this? Fiore – He is a hands-on owner and will keep an eye on the property.

Jeffery Gogan, Archt – The building is 2.5 stories with a basement for storage and mechanicals. The 1st floor has a 3 BR apartment. The 2nd floor is similar with a 4th bedroom available. A back stair connects the 2nd floor to the attic/3rd floor. The 3rd floor is planned to add a bathroom and use existing rooms for two additional bedrooms.

The roof line will a shed dormer added on behind the existing dormer on the right and on the left, but they would not be visible from the sidewalk on the house's side of the street. They may be visible from farther away. The bathroom dormer would not be visible from the front.

A-1 3rd floor rendered floor plan
A-2 colorized front elevation
A-3 colorized side elevation
A-5 colorized rear elevation

Kevin O'Brien, Planner – There are number of existing variances related to lot size, coverage and setbacks. None of them are exacerbated. Two new variances are required for FAR with 1.72 proposed with 0.35 allowed, and parking, where no parking is existing or proposed and 6 spaces are required.

The use is permitted in the zone and is similar to the adjacent properties. The additions will not be very visible from the street. The 3rd floor space is habitable but the dormers provide for better access and to allow the rooms to meet code for using the rooms as bedrooms.

The additional area added is 233 sf by adding the dormers. The bedrooms will expand from 7 to 9 total but there will still be 2 apartments. There will also be additional common area. The property currently gets a total of 5 parking permits with 2 for unit 1 and 3 for unit 2. Many residents don't use the parking permits. Residents don't expect to park in a location like this.

The front steps extend into the ROW, as do nearby properties.

The use promotes the public good by providing additional housing. The Master Plan calls for a wide range of choices and additional residential land uses at appropriate densities. By providing infill housing this project meets these goals.

The proposal has special reasons through meeting the purposes of the MLUL, including purposes A, G and I. A desirable visual environment is promoted as little change will be visible from outside.

One and two-family uses are permitted so there is no negative impact. The increase in occupancy is minimal and the visual difference is minimal. The parking is not needed as residents don't use cars. There are no negative impacts.

The Board can also grant relief under the RSIS parking standards based on these reasons.

The project meets the 3 prong test as it has special reasons, it supports the master plan and there are no negatives to the proposal. Additionally, the D variance is for FAR, not for the use itself. The standard for the Board to review is whether the property can handle the proposed use. In this case there is no change to the use and the number of inhabitants doesn't change in the long term. It can support the proposed expansion.

The parking variance can be granted under the C2 standard as promoting the zoning ordinance.

Public: None

Board Discussion:

McElligott – the project blends nicely and feels it is a good project.

Motion To Manzella

Second: Chester

| | Yes | No |
|----------------------|-----|----|
| Nancy Coppola, Chair | | |
| John Cox, Vice Chair | X | |
| Margaret Chester | X | |
| Sue McElligott | X | |
| Doug Sheehan | X | |
| John Zimmerman | X | |
| Maria Torrisi | | |
| Peter Ventrice (alt) | | |
| Jose Madera (alt) | | |

| | | |
|-----------------------|---|--|
| Tierream Houser (alt) | | |
| Mike Manzella (alt) | X | |

B. GUILLERMO QUINONES, Z-2014-02, Variance application for the use of the existing building for mixed use purposes located at 216 Commercial Avenue, Block 212, Lot 20, Zoning District: R-5A

Jennifer Bradshaw, Esq. – the property is in the R-5A and a mixed-use retail/residential property is proposed. A use variance and parking variance are required, among other variances. A deli/take-out restaurant is proposed with no seating.

Susan Sheffmaker, Architect – The site plan shows the existing building and driveway on the left, with an area for trash and mechanical equipment added to the site. The ground floor is proposed as a deli. It will have exit doors in the front and rear. The front will have an entrance to the upstairs residential units.

The deli will have a hood, deli counter and prep counters. The 2nd floor will have a 2BR apartment. The façade will have vinyl siding, probably in a tan color.

Manzella – will there be signage for the retail? Sheffmaker – yes but it hasn't been designed yet.

Allison Coffin, Planner

The applicant plans to convert an existing vacant record store to a deli use. Hours are proposed as 7A – 5P. They are seeking to have City trash pick up but would consider private property. The site is blighted and an eyesore now. It is located in the R-5A zone that permits 1 and 2 family uses. The mixed-use proposal requires a D1 use variance. The lot is substantially smaller than what is allowed, but this is an existing condition. This also generates coverage variances as well as an FAR variance.

Two new variances are required for parking and impervious coverage. This allows for the pad areas for trash and condensers.

Special reasons exist to grant the variance. The site is particularly suited as the current condition is very non-conforming and the previous use of a record store is no longer viable. The limited hours of use will have a limited impact on the neighborhood. The conversion takes advantage of the existing building and the building is not conducive to conversion to a conforming residential use. Conversion to a two-family house would exacerbate the parking variance compared to the retail deli use. There is no detriment to the neighborhood caused by the proposed use. The rehabilitation of the property will create a more pleasing viewscape for the neighborhood. It will not impair the R-5A zone.

Manzella – will both spaces be for the residential uses? Coffin – Yes. The deli will only have the owner and one employee.

Public: None

Chester – how does this site differ from other delis in the area? Burgess – he is looking to have healthier fare and not be a convenience store like next door.

Cox – you are limiting hours to 7A-5P? Lanfrit - yes

Reopen to Public;

Imi Deng – owns house on Comstock and is concerned about parking.

Burgess – the intention is to serve the neighborhood and not bring in extra traffic.

Zimmerman – is this a permit parking area? Patterson – Yes. Only people with Ward 2 stickers can park on the side streets

Motion To Approve: McElligott
Second: Zimmerman

| | Yes | No |
|-----------------------|-----|----|
| Nancy Coppola, Chair | | |
| John Cox, Vice Chair | X | |
| Margaret Chester | X | |
| Sue McElligott | X | |
| Doug Sheehan | X | |
| John Zimmerman | X | |
| Maria Torrisi | | |
| Peter Ventrice (alt) | | |
| Jose Madera (alt) | | |
| Tierream Houser (alt) | | |
| Mike Manzella (alt) | X | |

X. **ADJOURNMENT at 8:45 pm**