

**VILLAGE OF MONROE
ZONING BOARD OF APPEALS
PUBLIC HEARING
August 10, 2021
MINUTES**

PRESENT: Member Zuckerman, Alternate Member Doherty, Member Czerwinski, Chairman Baum (arrived during Gorovoy hearing), Kelly Naughton Esq., Building Inspector Cocks and Assistant Building Inspector Proulx

ABSENT: Member Margotta, Member Gilstrap

Acting Chairman Zuckerman called the meeting to order at 8:05 pm with the Pledge of Allegiance to the flag.

APPLICATION: Shahla Gorovoy – Use Variance – 228-1-48.1

The application of Shahla Gorovoy for a use variance from the requirements of Section 200- 62A. The applicant has an existing non-conforming apartment in the third floor. The applicant would like to alter this space by creating two additional bedrooms and relocating a half-bathroom to create a full bathroom.

The property, which is the subject of said action by the Board, is located in an SR-20 Zoning District and is identified as Section 228-1-48.1 on the tax map of the Village of Monroe and is also known as the address 176 Pine Tree Road, Monroe, NY

Present: Applicant Shahla Gorovoy, Architect for applicant David Niemotko, Attorney for applicant Ron Kossar.

Acting Chairman Zuckerman explained there were only three-members present to hear this application and that the applicant has the right to postpone this hearing for one month when there may be a full Board to hear the case. If applicant would prefer to be heard by the full Board this item could be postponed until the September 2021 meeting. Ron Kossar stated he discussed this with his client and she has elected to proceed.

David Niemotko, Architect for the applicant, gave a background and overview of the project. Mr. Niemotko explained his plan calls for two dormers to be added to the existing roof, which will create space to improve the existing apartment. The house is an approved two family. The current apartment is basically a studio apartment that has a bathroom, a kitchen, a living room and another room that is not legally considered a bedroom so the apartment needs to be considered a studio. The new design which would allow for a reconfiguration of that space, would be able to create two bath rooms, two bedrooms with a living room and kitchen. The new design is the same basic allotment of space. The current apartment is 1,135 sq. feet and the new design would be 1,150 sq. feet.

Currently the entrance to the first floor of the duplex is on the second floor of the structure. The second floor currently holds the kitchen, bathroom, living room and foyer. The new design would add that existing kitchen and bath to the main house and turn the foyer into a kitchen for the apartment. The new design would add two bedrooms to the third floor, which is the attic, and add a second bathroom. The current living room would remain in place. This is a reconfiguration of the house without changing the

foot print of the house. This would be achieved by adding two dormers to the house which would allow for the reconfiguration of the space. The new space created by the new dormers would adhere to the building codes for head height and windows. David Niemotko believes this project would not have an adverse effect on the neighborhood or on the house itself. Adding the dormers would add space to the third floor which would result in a more “rentable” space.

David Niemotko stated the financial considerations requested for this project were completed and referred to Ron Kossar, attorney for the applicant, to cover those details.

Ron Kossar, stated that this project is nothing more than a reconfiguration of interior space. There is no impact to the exterior space or foot print of the structure.

Ron Kossar wanted to review the four elements of proof which are required for a use variance for the Board to make a determination.

The first element is the property is incapable of earning a reasonable rate of return on the initial investment. A Dollar and Cents analysis was submitted and distributed to all Board members. The structure is a legal pre-existing apartment the owner was never able to realize return on investment due to the current set up on the third floor. The issue is there is a room on the third floor which cannot legally be called a bedroom. Ron Kossar stated the owner has never been able to realize the income from the apartment due to the problems with the third floor. Ron Kossar stated the owner has never been able to retain any credible long-term tenants. The only way the owner can convert this property into economic use is to reconfigure the space. If the reconfiguration is done the owner should be able to see a return of around \$1,900 a month which would be a realistic return on her investment.

The structure is a legal 2 family house. In 2017, the Village of Monroe changed the zoning and zoned that whole area to only single-family houses. Ron Kossar stated the property has no economic return for her due to the zoning area. He stated this has caused an economic loss and is a unique situation which is not self-created. Ron Kossar stated he has been to the property and it is in a nice neighborhood and the reconfiguration would only be an enhancement. Ron Kossar believes the hardship was created when the Village zoning code changed in 2017. He said the applicant would also be adding solar panels to the new roof. Ron Kossar feels that these items meet the four elements that the Board must use to make its decision for a use variance.

After Ron Kossar was finished he asked for any questions the Board might have. Acting Chairman Zuckerman stated that the dollar and cents analysis documents sent in May did not have all the financial information needed. Acting Chairman Zuckerman stated the documents do not show that you cannot get a reasonable return on investment for each and every permitted use of the property under the current zoning regulations. Ron Kossar stated that the information was presented during oral testimony that was just given. At present the owner cannot realize an economic return as she cannot rent out the property. If the structure was converted into a single-family house for the owner’s own use, there would be no economic return as there would be no rental income. Ron Kossar stated there would not be a reasonable return on the investment unless the use variance was granted.

Kelly Naughton, attorney for the Board, stated that the Board needs financial documents for each type of permitted use for the property as well as proof of the value of the property and authenticated proof on return on investment. There are several options for what the property could be used for in that zoning area. Acting Chairman Zuckerman stated in the SR20 zoning area accessory apartments are an option if accessory apartments are limited to 1,000 sq. feet. Kelly Naughton stated that accessory apartment is an option for the SR20 zoning and if that was an option that the owner would like to consider then they should speak with the building department. Jim Cocks, building inspector for the Village of Monroe,

stated that should also be discussed with the Planning Board as there are other restrictions on accessory apartments.

Jim Cocks stated the new FAR law would also be in effect. The FAR law went into effect May of 2021. The FAR law limits the size of the structure and structures cannot have a 3rd floor. Jim Cocks stated that if the structure had an accessory apartment it could only be sold as a one family, while the structure in its present state could be sold as a two family.

Acting Chairman Zuckerman stated that the current sq. ft of the house already exceeds the size permitted under the new FAR law. Therefore, no new footage could be added. The FAR law also does not permit a third floor for the SR20 zoning area.

After discussion with his client, Ron Kossar stated as the project was fully submitted they would like to proceed with the Board vote.

Acting Chairman Zuckerman stated that the house was built in 1913/1917 and the current owner purchased the property 2003/2004. In 2008 the owner submitted plans to make the property a multi-family house which was turned down by the Planning Board as zoning for SR20 did not allow three family houses. The owner then submitted plans for a two-family house which was granted by the Planning Board. Acting Chairman Zuckerman stated he was confused as to why this request was being made after the house was converted to a legal two family based on the plans the owner wanted and submitted. Acting Chairman Zuckerman stated the plans were submitted by the owner and the apartment had been rented for 6 years. Shahla Gorovoy stated the reason she is before the Board now is because her roof leaks and she needs a new roof. It is the ideal time to add the dormers at that same time as getting a new roof. Shahla Gorovoy stated the roof leak started in 2017. Shahla Gorovoy stated she has never been able to get more then \$1,150 for the apartment and if the reconfiguration is completed she could get \$1,800/\$1,900 for the apartment.

Kelly Naughton, attorney for the Board, stated the Board needs to go over the four elements for a use variance for a decision.

Acting Chairman Zuckerman stated when he did a google search he found a business listed at that address. Ms. Gorovoy stated there was no business at that address.

Acting Chairman Zuckerman opened the hearing for public comment. There was no comment from the public.

Chairman Baum arrived and Kelly Naughton, attorney for the Board, recapped for him.

Member Czerwinski asked what marketing is being done for this property? Shahla Gorovoy stated she advertises on Craig's List and after the last tenant left she raised the rent by \$60. She stated that the apartment was not rented for the last 16 months due to Covid.

Acting Chairman Zuckerman stated that the application and the SEQRA information had been amended from what was originally submitted.

On a motion by Acting Chairman Zuckerman and seconded by Member Czerwinski, it was: **Resolved that based on the information received a negative declaration based on SEQRA was warranted.**

Ayes – 4

Nays – 0

Absent – Member Margotta, Member Gilstrap

On a motion by Acting Chairman Zuckerman and seconded by Alternate Member Doherty, it was:
Resolved that the public portion of the meeting be closed.

Ayes – 4

Nays – 0

Absent – Member Margotta, Member Gilstrap

The Board went into discussion on the four elements for a use variance.

- 1) The property is incapable of returning a reasonable return on initial investment for any of the allowed uses for that zoning district.
 - a. Acting Chairman Zuckerman explained this refers to a reasonable rate of return not a more profitable return. Acting Chairman stated the information presented was self-serving and did not cover all the permitted uses for the SR20 zoning area. Alternate Member Doherty stated the Dollar and Cents analysis compared the property, a single family converted house, to a multi-unit property specifically built for that purpose. She did not believe this comparison was valid due to the restrictions a converted single family would have versus a home that was purposely built for multi-family. She felt the uniqueness of the house being a two family in an area zoned for one family houses could add to the value of the price of the house. Member Czerwinski agreed as there was insufficient information on the sale value. He stated he wanted to know the sale value of the property with the studio, without the studio, with two bedrooms, and without two bedrooms. Without that information we have nothing to compare it to so a reasonable return cannot be determined. Alternate Member Doherty stated the renting is a risk for everyone who rents properties so it should not be considered. Acting Chairman Zuckerman stated we do not know why the property is not rented, is it the plight of the property or the plight of the owner because of Covid? The Board has no way of knowing. Acting Chairman Zuckerman felt the Dollars and Cents document was full of excuses and not enough real information, for example replacing the roof was stated but any house in the SR20 zoning district would need a roof replaced so was not a unique financial hardship. Acting Chairman Zuckerman stated there was not sufficient evidence that there wouldn't be a reasonable rate of return. Just because they can't get market value does not mean they aren't getting a reasonable return. Chairman Baum stated he did not feel there was sufficient information to make the determination.

Ron Kossar interrupted the Board and stated his client would like to withdraw the application without prejudice. (without decision)

Kelly Naughton, attorney for the Board, stated no formal decision or determination will be had by the Board. The Board accepted the withdrawal.

APPLICATION: Nezir Cosovic - Use Variance - 201-5-1

The applicant has a pre-existing non-conforming two-family dwelling. The applicant is proposing a renovation to the basement to create additional living space by adding an additional bathroom which the Building Inspector considers to be an alteration under Section 200-62A. The property, which is the subject of said action by the Board, is located in a SR-10 Zoning District and is identified as Section 201-5-1 on the tax map of the Village of Monroe and is also known as the address 347 North Main Street, Monroe, NY.

This application was withdrawn from consideration by David Niemotko, on behalf of the applicant, as it would be too hard to prove the case for a use variance.

ADOPTION OF MINUTES: was postponed as three members from the July meeting were not there.

Old Business:

ZBA Applications – The Pets I Love Veterinary Hospital application was received and processed. The application was revised and needs to be checked for accuracy. After it is checked it will be distributed to the Board. Chairman Baum stated the information needs to be sent to the County.

Proposed new signage: The Planning Board is proposing new temporary signage be displayed on properties so people know what is going on at that property. Kelly Naughton, attorney for the Board, stated some towns are requiring signs and are doing this as people are not reading the notification letters. Chairman Baum stated these signs are being put up for people who may not get the 300-foot notification and if they have something to say they can follow-up. Chairman Baum stated that there are problems with this such as: How long does the sign stay up? Who maintains the signs? What if the meetings go on for months? Member Zuckerman stated he is not sure why the ZBA needs to be listed on the law as it involves Planning Board not the ZBA. Chairman Baum stated the signs do not affect us so whatever the Planning Board decides is fine. The ZBA is not required to give advisement.

NEW BUSINESS:

Member Zuckerman stated that the Village Board is discussing revising the comprehensive plan for the Village.

Member Zuckerman stated that the final scoping document for the 208 Business Center was received and the Planning Board is the lead SEQRA agency.

ADJOURNMENT

On a motion made by Member Zuckerman and seconded by Member Czerwinski, it was: **Resolved to adjourn the meeting at 9:05 pm.**

Ayes – 4

Nays – 0

Absent –Member Margotta, Member Gilstrap

Respectfully submitted,

Rhonda Charles
ZBA Secretary