

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 1

PRESENT: Chair Ed May
Commissioner Joseph Ficano
Commissioner Robert Lawson
Commissioner Karen Geasey
Commissioner Louis Shields
Commissioner John Rafter
Commissioner Paul Robinson
ABSENT: Council Member Bob Brzozowski

Chair May called the regular meeting to order and asked the Clerk to call the roll.

PETITIONERS

The Chair indicated there were no petitioners for matters other than business listed on the agenda.

CORRESPONDENCE

City Clerk Koury reported on the following correspondence received that has been entered as written:

- The following was received from Mildred Nuytkens, 12 Hill Place, Oneonta, dated April 18, 2012:

“Dear Zoning and Housing Board of Appeals,

I received a notice of a request for a variance at 1 Hill Place. Unfortunately I am unable to attend the meeting on April 23rd but would like to request that my letter be read at this meeting.

I have lived at 12 Hill Place for 18 years. This small block of only 9 houses had been primarily an owner occupied block. Over the past few years the houses have become over half rental properties. The upkeep of the block has taken a serious downturn. The parking situation has become untenable as well. This is a dead end street and the traffic and turn around is already excessive. I urge you to leave the current building as it was intended for small family use. I am completely opposed to any variance to add another bedroom to 1 Hill Place or any variance for a parking waiver. Please consider the voices of those of us trying to preserve owner occupied buildings on Hill Place.

Thank you for your attention to this matter.

Sincerely,”

- The following Memorandum, dated April 23, 2012, was received from Code Enforcement Officer Chiappisi:

“The Tax Assessor’s record shows that there was a half finished attic at least since 1975. However, the records also show that the property has always been a 1 bedroom house.

Code requirements for stairwells, room size, emergency escape windows and ceiling height were recent additions (1984?) to the residential building code. Codes are written by a code council made up of architects, engineers, builders, contractors and most importantly fire safety marshals.

Rooms with low ceiling height are a hazard to a sleeping occupant because in the event of a fire, there is a shorter time interval in which a person might be overwhelmed by smoke. A room with a 6’8” ceiling height with sloped ceilings will fill very quickly with smoke. Compound that with an egress with obstructed headroom. In the event of a fire this could pose a serious hazard to a person trying to escape whose vision is occluded by the smoke.

There is also the question of whether emergency personnel, in full gear, could reach the occupant or, if need be, reach the occupant with a gurney.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 2

(Correspondence) continued

Since the intent is to make this a rental property, I believe that approval of this space as a bedroom could put an occupant at serious risk. A risk they may not entirely comprehend until an emergency arises.”

APPROVAL OF MINUTES

Without benefit of a motion, the board approved the minutes of the regular meeting held March 26, 2012, as written.

PUBLIC HEARING ON REQUESTED VARIANCES

The Notice of Public Hearing on the following request was duly published in *The Daily Star* on Tuesday, April 17, 2012. Affidavit as to proof of publication is attached hereto:

1. Josh Wood is requesting an area variance for lot size and a site plan review for a parking waiver, in order to use a room on the 2nd floor of 1 Hill Place, Oneonta, New York as a bedroom. The property is a potential residential rental. A variance from the Housing Board of Appeals is also required.

NEW BUSINESS

- 1. **1 Hill Place (300.05-3-25): Appeal of Housing Code violations in relation to upstairs bedroom – Sparaco Family Trust; Paul Sparaco, Trustee**
- 2. **1 Hill Place (300.05-3-25): Area Variance and Site Plan Review – Josh Wood:** The applicant is a prospective buyer of the property. He wishes to use a room on the 2nd floor as a bedroom. This property is a potential residential rental.

1 Hill Place (300.05-3-25): Appeal of Housing Code violations in relation to upstairs bedroom – Sparaco Family Trust; Paul Sparaco, Trustee, and

1 Hill Place (300.05-3-25): Area Variance and Site Plan Review – Josh Wood:

The following Memorandum, dated April 17, 2012, was received from Code Inspector Hester:

“SUBJECT: PROPERTY ADDRESS: 1 Hill Place
 TAX MAP #: 300.05-3-25
 # OF DWELLING UNITS: 1
 ZONING DISTRICT: R-2 Moderate Density Residential District
 OWNER(S): Sparaco Family Trust; Paul Sparaco, Trustee
 INSPECTION DATE(S): 03/13/2012

A housing code inspection was done by me at the above referenced property. Attached is the resulting inspection report. Below is the list of violations that the owner is appealing.

PAGE	#	LOCATION	VIOLATION	CODE	
2	10	Upstairs Bedroom	The room that the owner(s) wants to use as a bedroom has a ceiling height of approximately 6 feet 5 inches.	158.12 A (1)	Habitable space shall have a minimum height of 7 feet six inches, measured from floor to ceiling.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 3

The ceiling of the stairway used to access the 2nd floor is sloped and does not allow an adult to walk upright.”

"SUBJECT:

PROPERTY ADDRESS:	<i>1 Hill Place</i>
TAX MAP #:	<i>300.05-3-25</i>
# OF DWELLING UNITS:	<i>1</i>
ZONING DISTRICT:	<i>R-2 Moderate Density Residential District</i>
OWNER(S):	<i>Sparaco Family Trust</i>
APPLICANT(S):	<i>Josh Wood</i>
APPLICATION TYPE(S):	<i>Area Variance: Lot Size Site Plan Review: Parking Waiver</i>

§300-72	<i>Non-conforming lots or parcels</i>	<i>C (1) No change shall be permitted to any non-conforming lot which would have the effect of increasing the density at which the property is being used, or increasing the structure located upon such lot, if the dimensional requirements and standards, including parking, of the underlying zoning district are not met as a result thereof.</i> <i>C (3) A lot shall be considered non-conforming if there is not sufficient parking, as determined by the standards set forth in the Table of Parking Requirements by Use.</i>
---------	---------------------------------------	--

Fifty-three (53) letters were sent out by the Clerk's Office to property owners residing within 200 feet radius of the property in question and one (1) response was received and entered under Correspondence.

Mr. Josh Wood, 254 West Street, Oneonta, stated he wanted to buy 1 Hill Place and rent it out. He said the upstairs bedroom was shorter than 7' 6" tall and because of that he needed a variance to rent that bedroom.

Commissioner Geasey stated she had some concerns. She said she had been told that it would be

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 4

(1 Hill Place) continued

very difficult to be sure that a rescue person could get up the stairwell as well as a fireman with all the equipment and that would be more dangerous for somebody sleeping in that room because of the lower ceiling. She said it would be more harmful to that occupant quicker with the room size and stairwell as it presently exists. She said it was different if there was a family living there and chose to have someone in there but if it was being rented out she was concerned about the liability for the city to okay that and then have a big problem.

Chair May stated that the board really could not discriminate on those two issues.

Hearing no further comments from the board the Chair asked if there was anyone in the audience who would like to address the board on the matter.

Mr. Jim Murphy stated his wife Susan and he have owned 20 Church Street since 1987. He said he was curious if there had to be a bathroom upstairs in addition to the bedroom.

Chair May stated he was not sure that Mr. Wood was adding a bedroom upstairs. He said he thought there was a room there that had been used as a bedroom.

Mr. Wood stated that it was a finished room.

Chair May stated he did not think there were any plans and there was no request to put a bathroom up there.

Mr. Murphy stated he thought it would be more appealing to a family to add a bathroom upstairs. He said often he noticed over the years living in that area that it was increasingly more expensive to rent apartments and as a result every room was occupied with girlfriends and boyfriends staying over. He said if there were 3 people living in that house there would be added parking and so forth. He said those were his concerns and thought this was the opposite of what the city was trying to do and that was to encourage more owner-occupied buildings.

Ms. Nadine Fitz-Henry, 4 Hill Place stated she lived right across the street from 1 Hill Place. She was concerned about a lot of things including Mr. Murphy's concern. She said this was a dead-end street and currently had about 16 college students living on that street. She said while this was not a variance request for parking the parking was an issue on that street. She said she worked at Hartwick College for several years in the housing department and was also very concerned about what Commissioner Geasey was expressing. She said whether the board could separate that or not it seemed like a fire hazard for people to be living in that small space. She said she had witnessed some sad events in housing through the college. She said their concerns were about parking and more college students living in this vicinity. She said the street was beginning to look like a ghetto and it was very uncomfortable living in this kind of atmosphere with the houses going downhill. She said she would be very upset if more college students were allowed to live on that small street.

Chair May stated that the board did not allow or disallow college students, they are people. He said one could rent any home in the city to 3 or less unrelated people under the current Zoning Code.

Ms. Fitz-Henry stated she would change her phrase to "any people."

Code Enforcement Officer Chiappisi stated it was stated that this bedroom had existed. He said this was a finished room for some time and the Tax Assessor's records shows that as of 1975 there was a record on the books but the Tax Assessor also had it listed as a 1-bedroom home. He said clearly this would be adding a bedroom.

Chair May stated he took exception to that. He said just because the Assessor's records were not necessarily complete nor were the Code Enforcement Office's records complete at that point in time

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 5

(1 Hill Place) continued

he was not able to ascertain whether it was a 1-bedroom or 2-bedroom. He said there were a lot of houses with the same general condition as this, smaller homes with finished attics all over the city.

Code Enforcement Officer Chiappisi stated if it was granted that this could be a bedroom then it would intensify the use and parking would be issue and would not require a variance but a parking waiver. He said unfortunately he had not been inside the house but the inspector gave him a rundown. He said his understanding was that one cannot get up the stairs without ducking their head, it was one of those attic spaces. He said that was one of his issues with safety if emergency personnel would be able to get someone out if they had to get up there with a gurney. He said not having seen the space the inspector who did see it did not think emergency personnel would be able to do that. He asked for a description of what the stairwell looked like, i.e. was it L-shape, a straight run, etc and at what point did one have to duck and what size bed would fit up there.

Mr. Wood replied that in going up the stairs at the top of the stairs it turns right, at that turn the ceiling did go at an angle.

Code Enforcement Officer Chiappisi questioned if it was not the ceiling but rafters were coming up at such an angle it blocked head room.

Mr. Wood responded right. He said but on the right-hand side it was open and there was no wall where a gate or something would need to be put up but at that point a mattress could be brought up there. He said he thought there would be room to move somebody if they needed to be moved. He said he did not take any measurements and did not remember exactly how big it was.

Mr. Brad Morley, Realtor, Benson Agency who was listing the property, stated there was a full size mattress, not queen size, up there even though he thought a queen size mattress would fit but the box spring may be an issue. He said there was that open area as Mr. Wood said where a mattress would get passed down. He said there was also a large dresser that came out of there when they cleaned the property out. He said he did not know about a gurney, he was not a fireman.

Chair May stated he did not know if that was germane because he was not sure one could get a gurney up the stairs in his house.

Mr. Morley stated there were a lot of houses that way.

Ms. Fitz-Henry stated it looked like someone had put boards connecting the garage to the garage that belongs to 26 Church Street connecting to the house at 1 Hill Place. She said she did not know what that was about but knew that the house at 26 Church was vacant and owned by a man in Albany. She said about the square feet of how much a lot was supposed to be she hoped no one was trying to take over that little garage to go with that 1 Hill Place residence.

Mr. Morley stated he thought Mr. Wood understood that garage did not belong to 1 Hill Place. He said that one 2x4 between the house and garage had been there since he listed the property. He said he had worked with Mr. Wood in the past on another property he purchased and he was a diligent young man who took care of his property. He said he could assure the city and the neighbors that this would not be one of the rundown properties.

Mr. Leif Van Cott, 22 Church Street stated the house in question was his backyard. He said he lived there 8 years and since then 1 Hill Place had been vacant and the house next door had been vacant for the last 4 or 5 years. He said the house on the other side of this house in question was a rental which during the summer was a baseball camp rental house. He said this was basically a one-way, dead-end street with parking on one-side only. He said there was no driveway to this house and the

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 6

(1 Hill Place) continued

only driveway in question was in a vacant lot which in the past was a place where transient people hang out and collect bottles. He said he saw the police there recently telling them not to collect bottles in this backyard. He said his concern was that there was no parking. He said presently there were a lot of college students living on the street and with no driveway at this house he did not think there was enough space to sustain the kind of parking from putting 2 people in an apartment in that house.

Chair May questioned if Mr. Van Cott saw a way Mr. Wood could improve the parking situation.

Mr. Van Cott responded aside from being able to lift the house up he was not sure.

Chair May questioned what Mr. Van Cott suggests Mr. Wood do with the house.

Mr. Van Cott responded it seemed like the board should stick with the rules and he did not see why the variances were looked over.

Chair May stated he wanted to correct that misunderstanding. He said nothing was looked over by the board. He said the best city records indicate that this house had been there prior to 1975, which meant the Zoning Code did not quite go back as far as the house did and the house was built in the 1920's so someone gave someone permission to build the house at some time. He questioned if it was Mr. Van Cott's suggestion that this board should block the use of the house even for a family.

Mr. Van Cott stated he did not know if he would even call it a starter house. He said he was just saying the neighborhood was already crowded enough for the infrastructure.

Chair May stated that the board's job was not to decide whether the neighborhood was crowded or not and whether there was parking or not or preexisting conditions. He said if someone were to build something new there the board would have much more latitude in what it does. He said the board had limited things it could do. He said this would not be the only house in the city that falls into the conditions Mr. Van Cott had described. He said he was talking in terms of lot size and parking and one cannot make something that did not exist. He questioned if there was a remedy that Mr. Wood could come up with that would make Mr. Van Cott happy.

Mr. Van Cott responded it seemed to him that they were trying to make something that did not exist because right now there was not anybody living in the house and he was not sure if it was going to be a multiple person apartment.

Chair May stated that there could not be more than 3 unrelated people in a rental. He said if they were related there could be as many that could fit, the city had no control over that.

Ms. Laurie Taylor, 11 Hill Place, stated the Chair may say or it may be written in the books that only 3 unrelated people could live in a house but trust her that was not the case and that happens constantly. She said this small little house could house 3 or 6 students and they could each own a car and it would be even more congested than it was now.

Chair May stated he was very familiar with it and understood what Ms. Taylor was saying but the Zoning Board of Appeals dealt with zoning issues. He said if there was an over occupancy issue Ms. Taylor could file a complaint with the Code Enforcement Office. He said if there was unruly activity going on there she could call the Police Department and they would come and investigate. He said the city did not issue guns and badges to this board but had a simple set of laws to follow.

Ms. Taylor stated she thought what all the neighbors were saying was that it would be just nice to have a single family come live on the block.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 7

(1 Hill Place) continued

Chair May stated that was all it was and all it will be. He said the board was not allowing this to be converted to a 2 or 3 family home, it will be a single family home. He said in the city under the city's current zoning laws any single family home could be rented to 3 or less unrelated people or any number of related people.

Commissioner Ficano asked Mr. Wood why he thought the house was vacant for a number of years.

Mr. Wood replied Mr. Morley knew the history a little bit more.

Mr. Morley stated this house had been in an estate of the Sparaco Family Trust and the mother had been in a nursing home and the thought was always that she was coming back. He said that was why the house sat empty all these years. He said the mother was not coming back.

Commissioner Ficano stated it was not as if the house had been on the market and nobody wanted to buy a 1-bedroom house.

Mr. Morley stated the house just came on the market and within weeks Josh Wood called and had it under contract to buy it. He said the owners in Florida have been patient to wait for this process to happen.

Commissioner Ficano questioned if Mr. Wood would be living there.

Mr. Wood responded no and that he did plan on buying it and renting it.

Mr. Jim Murphy questioned how far the landing was at the top of the stairs from the end wall of the stairway as Mr. Wood described it. He wondered if a gurney could fit around and suggested someone from the city go and give it a dry run before a decision was made.

Mr. Walt Smith, 6 Hill Place, Oneonta, stated he thought the reason the board had such a large turnout was that there was some frustration in the neighborhood. He said that was because each time the Zoning Board has had a chance to allow a variance that led to increased crowding, increased parking and increased disruption on the street it allowed the variance. He said the board has done so on 7-9 Hill Place, 3 Hill and 10 Hill. He said the only reason the neighbors thought it would come to an end was because this was the last building it could happen to. He said the frustration they were facing was because it just seemed like this was not right.

Chair May questioned if Mr. Smith's suggestion would be that the property sit vacant forever.

Mr. Smith responded that's really not an option. He said in the letter from the city it said "\$300-101 – Parking Requirements" and that a parking waiver was required. He said now the board was saying that was not something the board would be looking at because it would be kind of grandfathered in with the original property.

Chair May stated that was his opinion but other board members may have a different opinion. He said no one knows the outcome yet of this meeting because all of their deliberations happen here. He said the board understood the built up frustration and see it in many areas of the city. He said the board understood there was not enough parking and also understood when people came before the board a few months ago and proposed a parking lot somewhere in the city someone else did not want it. He said nobody wants anything in their backyard. He said the board did not have the power to have the house destroyed but did have the power to get some things accomplished that might satisfy the neighbors to some extent but were limited in what it could force the purchaser to do with the property.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 8

(1 Hill Place) continued

Ms. Tracy Verma, 8-10 Lawn Avenue, Oneonta, stated she was one of the few resident-owners on the street. She said there was a lot of student housing on those streets and it was very convenient for the students to park on the street instead of out back in the limited parking they had. She said from what she recalled Hill Place was usually filled up with parking and she had a concern about that.

Chair May stated everyone was upset about the conditions on the street but everyone bought their home on the street knowing the conditions. He said now there was an empty property on the street that could either remain empty and go downhill and be a nuisance or there was a chance to sell it to a young man who might fix it up and make it a credit to the neighborhood.

Commissioner Robinson stated he went through points raised about the variances, he agreed with about everything the neighbors had said and the history of the house and he could not find anything that would make him not allow this. He said it had been used as a house and that bedroom or a room had been there and he could not find a way to say no.

Mr. Jim Murphy stated in regard to what the Chair said about knowing the conditions of the street when they moved in. He said he moved to Church Street in 1987 and the neighborhood was not what it is now because in the last few years houses became rentals.

Ms. Nadine Fitz-Henry stated to follow-up when she moved there in 1975 there was one house on the street that was a rental and everything else was owner occupied and family so it has changed.

Oneonta Fire Chief Pidgeon stated he heard the comments in relation to a gurney issues. He said firemen make do with what firemen made do with and will cure any problem that they were able to cure. He said however there were standards and rules and regulations on building heights and requirements and they did have an opportunity to make this house safer by not allowing this to be a bedroom. He said if there were a set of standards for certain heights by codes, the books and on the laws he did not think they should waive in any way, shape or form to add additional density to this structure without those property sizes and requirements that would mean life and death safety on someone. He said if the board grants that there was a chance of a problem. He said the city had a chance to stop things from happening and at some point a stand had to be made. He said at some point they had to say these were the new rules, codes, regulations and laws and at some point they had to say enough was enough and follow them instead of continuing to allow variances into these different buildings and structures.

Chair May stated that was a great point and asked the Chief if he knew of any other properties in the city that might fall in the same situation.

Fire Chief Pidgeon replied this was the first time he was asked to attend a meeting of this board. He said he was sure there were others and at some point they could continue to look at these as an opportunity to make a correction to a house and again it had to start someplace.

Chair May stated the Chief's points were valid and the board would consider them but if the determination of the board was that the property is grandfathered the board could not go back to all the 1930-1940 homes and force these things to occur. He said when these houses were rentals the city had more control, there were more requirements and things could start happening there. He said he thought the Chief had a good point.

Commissioner Ficano stated this was a complex issue and heard what the residents were saying. He said one thing confused him that Chair May kept saying that the house was either going to be torn down or was going to be granted a variance.

Chair May stated he did not say it was going to be torn down.

Commissioner Ficano questioned if there was no third way and if this was unsalable as a 1-bedroom.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 9

(1 Hill Place) continued

He said it was not unsalable as a 1-bedroom.

Chair May stated he was confused at what the commissioner was saying.

Commissioner Ficano responded that repeatedly the Chair asked these people what the board should do with the house to “un-make it.”

Chair May stated it cannot be unmade because the room upstairs already exists.

Commissioner Ficano questioned why Mr. Wood was before the board if it was a done deal.

Chair May responded because Mr. Wood was trying to purchase and he was doing diligence and asking his broker what problems might come up in terms of codes and violations to make that house habitable. He said those were things the board could address. He said the board could not affect the size of the lot or the condition of the house as it sits now but if Mr. Wood wanted to utilize the house and rent it then it was required to meet certain code requirements of a rental property in the city. He said the board could also make some of those things requirements of this meeting that the board thought were reasonable.

Commissioner Ficano stated in some ways it made sense for it to remain a 2-bedroom because the house would be more attractive to perhaps an owner-occupied home as opposed to being a 1-bedroom.

The board held a brief discussion on the history of the house, the size of the room upstairs and grandfathering.

Commissioner Ficano stated he could customize his house and attic too and have all sorts of crazy rooms that nobody would know about until he tried to sell it to someone who wanted to use the house as he had cut it up and then this board says it had a problem with many of those things.

Chair May stated it depended on how things were done inside the home and if a valid permit was issued from the Code Enforcement Office.

Commissioner Ficano stated his point was that just because he had been doing it for 30 years did not mean it was right.

Chair May stated no and would explain what it meant. He said zoning went into effect in the city in 1974. He said there was no zoning prior to 1974 and everything built before then and used that particular way was grandfathered for that use. He said the city used its best efforts to find out how this house was used in 1974 and could not. He asked if the board then wanted to assume that it was used one way and now it was being used another and that was a matter that would come up with a vote. He said he did not know and was not going to make that determination. He said a lot of things happen in a lot of peoples’ homes as Commissioner Ficano suggested and they did not go to the Code Enforcement Office and get the property paperwork.

Commissioner Ficano stated the board did have a decision to make but was just saying he did not think they should be rolled over because it was a grandfathered use.

Chair May responded they had not rolled anywhere yet and were discussing the possibility of seeing how the board feels about the issue.

The board held a brief discussion on the comments made.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 10

(1 Hill Place) continued

Code Enforcement Officer Chiappisi stated both the State and City Codes had ceiling height requirements. He said the state sets theirs at 7'4" and the city's was 7'6" and those applied all the time because when smoke overwhelms a room someone in a 7' room would be overwhelmed faster. He said this particular house had a 6'5" ceiling, which was barely above a tall man's head. He said that was the violation that came in partially as an appeal of Code Enforcement's Housing Inspection report. He said Mr. Wood was appealing that as a violation of the ceiling height too low.

Chair May stated the board understood that. He said following the logic if all ceilings were 12' high there would be a better chance of surviving than if they were 8'. He said the board cannot control what was built in 1920.

Commissioner Geasey stated it was clear in Mr. Wood's paperwork that he wanted to use this space for a second bedroom. She said she did not know what other boards gave whatever variances and she did not care if some takes the board to court for this decision but at the end of the day if somebody dies in that apartment it was not going to be on her watch.

Commissioner Lawson asked about the process and that this property was asking for a zoning variance from the Zoning Board of Appeals first but the appeal of the height issue of the room was a Housing Board of Appeals that would be addressed in the housing portion.

Ordinance Inspector Ferris responded if the board approves the Housing appeal of the height issue then the board must also approve on the Zoning. She said if the Housing appeal was not approved there was no reason to do the Zoning.

Hearing no further comments from the audience the Chair said the board would like to know what Mr. Wood really wanted to do with the house and what he was willing to do with everything he heard at the meeting.

Mr. Wood replied what he had planned to do was a \$2750 worth of electrical work to update the electrical and was going to fix the house up to make it nice, clean it up and do what he had to do with the stairwell to make it safe. He said he was trying to make sure that this will meet all of the codes so that everything was ready to go. He said as for outside entrance or exit he had not really thought about that. He said he liked to do his homework to look things up and think about doing them.

Chair May asked Mr. Wood if he would like the board to table the matter for 30 days so he could give more consideration to what he heard this evening.

Mr. Wood stated if the board tells him what was required for him to keep this as a bedroom it would be much easier for him to make a decision on whether he could do that or maybe he could that.

Chair May stated that it was not really the board's job to help Mr. Wood design this project but there were things Mr. Wood could do. He said the ceiling height restriction was one because of smoke buildup. He said there were mechanical devices that evacuate smoke that could be employed to mitigate that. He said there were neighbors that wanted nothing because they liked it the way it was

A petitioner said that was not true.

Chair May stated that was the feeling he got as an individual listening to everyone.

Chair May stated if Mr. Wood was going to rent the property there were a lot of codes that needed to be met such as smoke detectors, wiring in house and painting. He said the condition of the house had to improve dramatically. He said they would like to see the ceiling height at 7'6" but he was not suggesting that he should or should not do it or if he can or he cannot. He said everything was

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 11

(1 Hill Place) continued

doable if one wanted to throw enough at it but there were other mitigations Mr. Wood could research for some of these issues. He said it was fairly easy to take care of the up and down the stairs issue that has been brought up. He said Mr. Wood could have come in saying he wanted to buy a 1-bedroom house and did whatever he wanted so he should be commended for speaking the truth.

Mr. Wood stated his plan was to have everything up to code and to have it as good as it was expected to be. He said he just wanted to make sure he could do that before he puts his money down basically. He said if it could be done he will do it.

Chair May stated he could get the sense of the board if Mr. Wood wanted to find out where he stands. He said clearly Commissioner Geasey was opposing it and he asked the rest of the board how it felt.

Commissioner Ficano stated he was opposing.

Commissioner Lawson stated he was not sure yet.

Commissioner Robinson stated he thought that if it was grandfathered it met the code and it would be up to Mr. Wood to decide if he wanted to do a dormer or something that would allow for a gurney to be carried up the stairs or whatever.

Chair May responded absolutely.

Commissioner Rafter stated in the Code Enforcement Office memo the violation had to do with slope and someone being injured or perishing. He said in regard to the notion of mitigation he doubted the ceiling could be raised but maybe there were other ways rather than the ceiling having to be a certain height. He said he appreciated Mr. Wood doing due diligence but the owners were on the spot and perhaps the neighbors because it was clearly a house that had limited potentials. He said he lived in a neighborhood that also had houses of limited potentials but some of them were on more spacious lots or had more parking. He said if he was in Mr. Wood's spot and thinking about being an entrepreneur he would like to think about what he could do to make this problem "smoke" free to mitigate that particular risk. He said he familiar with the fact of streets not having much parking and people bringing more people in, etc. He said he was very sympathetic and this was a difficult time in the city for a lot of different reasons about the desirability of Center City neighborhoods.

Commissioner Shields stated he was very concerned about fire safety and public safety but he was very aware of the grandfathering of it as well. He said he was kind of in the middle on how he felt.

Chair May stated that Mr. Wood had a sense of what was going on with board members. He said each member has a vote and 4 ayes were needed for it to pass.

Mr. Wood stated he did not know what to say. He said he would have to think about it before committing to anything. He said he was concerned about safety living in his place. He said if he did get house he would consider some way of handling the smoke.

Chair May asked Fire Chief Pidgeon if there was any way to mitigate that smoke concern in a low ceiling.

Fire Chief Pidgeon replied no not that he was aware of.

Chair May stated the only thing he knew of was forced ventilation. He said there were mitigating techniques to be utilized.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 12

(1 Hill Place) continued

Chair May stated Mr. Wood's options were that he could ask for a vote or put it off and consult with an engineer to find the costs to answer some of the concerns raised.

Mr. Wood suggested that the board go for a vote.

Mr. Morley stated that Mr. Wood was under contract for the house and besides the fees to come before the board he had paid the plumber to come and check the furnace out, do the furnace inspection, paid for an electrical inspection and had his mortgage commitment. He said those things all had time limits so he was not sure about another month.

Chair May stated his personal opinion aside from his position on the board was that he thought any improvement to the property was an improvement to the neighborhood and having someone in there and life in there. He said having a new electric service it was less chance of fire damage to the houses on both sides of it and behind than it was as a vacant structure especially with what the city has seen the Fire Department deal with in the last month. He said an empty building was an attractive nuisance for some people. He said full was always better than empty, full with the ideal code specifications of 2012 was the best of all possibilities. He said the board did not have that option because there was a prior existing building that had been used in a similar fashion for a protracted period of time. He said by his knowledge well into the early 1970s, prior to all zoning in the city.

Chair May entertained a motion to either approve or deny the application for use of the second floor before the Housing Board of Appeals including the request before the Zoning Board of Appeals. He said regarding the Housing Board of Appeals if this goes Mr. Wood's way he would have a whole list of violations that had been presented by the Code Enforcement Office that must all be corrected and the Code Enforcement Office will be vigilant.

Mr. Wood stated he had it all inspected, had all the reports and was ready to go.

Chair May questioned if Mr. Wood was willing to consult with some outside professional about the mitigation of smoke in the upper floor.

Mr. Wood responded he would look into it.

Chair May stated it could be something as simple as a hatch that automatically opens or it could be a fan that automatically turns on. He said the opening hatch was usually preferable and does not require electricity which sometimes gets disconnected when a house was on fire.

Commissioner Ficano stated he thought this house had not been on the market very long and it might be an attractive house to a retiring couple, someone who lives alone or someone who has a child. He said he did not think it was damning the house to the roles of the city's vacant houses. He said essentially why he would not vote for this was because he thought there was more of a chance for the home and it had nothing to do with Mr. Wood.

Chair May stated that was a fine comment but it was not the purview of this board to determine the marketability of a property. He said the board had someone before them with a particular issue.

Commissioner Ficano stated it seemed like it was the purview of this board to always vote in terms of who was going to spend money on the structure. He said whether it was going to be a rental or owner-occupied property seemed to be secondary. He said there seemed to be a bias of the Chair of always lets get money spent on properties because of the benefits to structures and he understands and respects that. He said he was just saying that was an example of a purview and so the opposite should be alive.

ONEONTA, NEW YORK - APRIL 23, 2012 - 7:00 P.M.

REGULAR MEETING OF THE ZONING AND HOUSING BOARD OF APPEALS PG. 13

(1 Hill Place) continued

Chair May stated his bias so Commissioner Ficano clearly understands it and for the record was 1) to comply with the law and, 2) was getting money spent on properties. He said the law indicates at this point in time that this property was a prior non-existing non-conforming use. He said this board cannot change that but it would be nice if it could.

Commissioner Ficano stated he understood that.

MOTION, made by Commissioner Robinson and seconded by Commissioner Rafter, that based on site visits by members of the Zoning and Housing Board of Appeals and testimony heard at the April 23, 2012 meeting on the property located at 1 Hill Place, Oneonta, the board approves the property as a grandfathered application allowing the use of the upper floor as a bedroom with the conditions that mitigation of smoke from the 2nd floor be determined by a professional engineer or architect and submitted to the Code Enforcement Office and the property complies with all other rental requirements as placed on them by the Code Enforcement Office. Furthermore, the issues of the non-conforming lot size and no parking are grandfathered as well.

Voting Ayes: Chair May
Commissioner Shields
Commissioner Rafter
Commissioner Robinson
Noes: Commissioner Ficano
Commissioner Lawson
Commissioner Geasey
Absent: None

MOTION CARRIED

RESCHEDULE MAY 28th MEETING TO MAY 21st DUE TO CITY HALL BEING CLOSED FOR MEMORIAL DAY

After a brief discussion on rescheduling the May 28th meeting the consensus of the board was to schedule the next regular meeting for Monday, May 21, 2012 at 7:00 p.m.

There being no further business to come before the board, Chair May adjourned the regular meeting at 8:15 p.m.

JAMES R. KOURY, City Clerk

JRK/pab