

Agenda

City of Middletown Zoning Board of Appeals

November 16, 2016

7:00 PM to 9:00 PM

Common Council Chambers

Meeting called by:	Joel Sierra, Chairman
Clerk:	Martina Tu
Members:	Joel Sierra, Deborah Clark, Don Luis, Nicholas Barber, Randy MacLean

Approval of September 21, 2016 minutes

11-13 Monhagen Avenue

JMSR, Inc.

Use variance: 4-family dwelling in I-1 zoning district

54-56 Beacon Street

54-56 Beacon Street Holdings, LLC.

Use variance: 4-family dwelling in R-1 zoning district

APPLICATION

ZONING BOARD OF APPEALS

City of Middletown, New York

Date deemed complete _____
Accepted by _____

Date 08-22-2016

Items 1, 2 and 3 are required to be completed

1. Address of Subject Property 11-13 Monhagen Ave. 34-1-13

Section 34 Block 1 Lot 13 Current Zoning District I-1

Building: Existing X New _____

2. Owner of Property J M S R, Inc.

Owner's Address 51 Forest Rd. #316-59

City Monroe State NY Zip 10950

Phone numbers: Home: 845.782.6546

Business: 845.782.6546

Cell: 845.325.5666

3. Applicant name _____

If different from Owner

Applicants Address _____

City _____ State _____ Zip _____

Phone numbers: Home: _____

Business: _____

Cell: _____

5. USE VARIANCE. Indicate on a separate piece of paper the specific reason(s) that the variance is necessary. All concerns listed below must to be addressed.

The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this ordinance, shall have the power to grant use variances, as defined herein.

No use variance shall be granted by the Board of Appeals without showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and
- (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) The alleged hardship has not been self-created.

The Board of Appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

We are asking for "Use Variance" for the reasons but not limited to as follows,

The house was originally build as a 4 family in the zoning it is with the approvals needed, as such we would like to reinstate this "Variance",

As for the area it would definitely keep the area in a safer way with people living and caring on the surroundings, vs, the way it's now Vacant and a risk for unwanted activities.

as far as the City of Middletown, it would get the taxes needed, and the cooperation of people which are in the area in the last 15 years and have a interest in the good direction the city is going and growing as a area of good reputation with a governing body to achieve higher then compared areas for the people in the city.

as to be able to have the flow of financial to achieve what we're looking so we could direct it in the right direction we calculated the expenses including the taxes it wouldn't be able to get it done in the right way unless it's a 4 family as such we ask to reinstate the "Use Variance" of 11-13 Monhagen Ave. In The city of middletown, to a 4 family use

Thanks in advance for considering and approving as such
your great help is greatly appreciated

APPLICATION

ZONING BOARD OF APPEALS

City of Middletown, New York

Date deemed complete _____
Accepted by _____

Date _____

Items 1, 2 and 3 are required to be completed

1. Address of Subject Property 54-56 Beacon Street

Section 16 Block 6 Lot 15 Current Zoning District R-1

Building: Existing New _____

2. Owner of Property Beacon St. Holdings LLC

Owner's Address 14 Highland Drive

City Highland Mills State NY Zip 10930

Phone numbers: Home: 845-827-6371

Business: _____

Cell: 845-537-5641

3. Applicant name _____

If different from Owner

Applicants Address _____

City _____ State _____ Zip _____

Phone numbers: Home: _____

Business: _____

Cell: _____

6. AN INTERPRETATION OF THE ZONING ORDINANCE. Explain the circumstances of the Section in question, the Title of the Section, the nature of the request, and the person or agency making the original determination. Additional sheets may be attached if more space is required.

7. SIGN ORDINANCE. Indicate the section to be varied, the title, and the amount of the variance in excess of the ordinance. Explain all conditions that require the variance to be issued. Additional sheets may be attached if more space is required.

Section/ Title	Required Dimension	Actual Dimension	Variance required
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8. Sign at the place indicated and print name.

Signature of applicant: ^{By} BERKAS ST HOLDINGS LLC
Christopher Kearney, MEMBER

Printed name and title Christopher Kearney

Date 11/2/16

SCHEDULE A

PERTINENT FACTS

The premises at issue (the "Premises") is currently zoned R-1, and is approved for single-family occupancy. Upon information and belief, the Premises had previously housed as many as eight units but for some time had been approved for a four-family dwelling (Code 411) and was used as such. The Premises is particularly well suited to be used as a four-family dwelling because of a brick firewall that naturally separates the Premises into four units. It would be prohibitive to remove the firewall, which Applicant is structural in nature. Therefore, Applicant wishes to restore the Premises to its believed natural and historical use as a four-family dwelling, and therefore seeks a variance to permit this use of the Premises in an R-1 zone.

REQUIREMENTS FOR A USE VARIANCE, AND HOW THEY RELATE TO THIS APPLICATION

(a) Applicant cannot realize reasonable return: The value of the Premises as a single-family dwelling is substantially less than as a four-family dwelling. Applicant is in the process of obtaining evidence demonstrating that it cannot realize a reasonable return on the Premises as a one-family dwelling. This evidence will be submitted prior to the hearing before the Board.

(b) Alleged hardship relating to property is unique: Upon information and belief, the Premises had historically been used as a four-family dwelling. As discussed above, the existence of the brick firewall, which essentially bisects the two portions of the Premises (54 and 56 Beacon) into four units, would be difficult to remove because it is structural in nature. Although Applicant could theoretically rent only one of these four units, the remaining vacant space would invite trespassers and squatters, which would be detrimental to all concerned. The highest and best use of the Premises would be as a four-family dwelling.

(c) Variance will not alter neighborhood's character:
Upon information and belief, the Premises was used as a four-family house for a number of years. In addition, the neighborhood contains a number of other multiple-unit dwellings. Therefore, granting the variance will not have an undesirable effect on the neighborhood. It will merely return the Premises to a use it previously enjoyed -- a use consistent with other houses in the neighborhood.

(d) Hardship not self-created: The Premises were not zoned R-1 until 2010. Therefore, when Applicant purchased the Premises in 2002 they were not zoned for single-family use, and this hardship was not created by Applicant.