

**CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS
MINUTES**

September 16, 2020

A meeting of the Zoning Board of Appeals was held in the Common Council Chambers, Second Floor, City Hall, 16 James Street, Middletown, New York on September 16, 2020 at 7:00 P.M., Joel Sierra presiding.

Members Present: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues

Members Absent: Marc Woody

Other Attendees: Richard J. Croughan, Corporation Counsel

A motion was made by Deborah Clark and seconded by Don Luis to approve the minutes of January 15, 2020 as submitted.

Roll Call Ayes: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues

Highland Hills, LLC

32 Kyleigh Way

Area variances for an existing single-family residential home

Mr. Sierra: Please state your name and address for the record.

Mr. Depuy: I'm Tom Depuy from Depuy Engineering. I'm here representing Highland Hills, LLC on their request for a variance on a house at 32 Kyleigh Way. We're requesting a front yard variance from 30' to 22' and a combination side yard variance from 25' to 20.8'.

Mr. Sierra: Okay. Any questions from the Board?

Mr. Croughan: I have a question for you. Your variance request, when you say 22.9' and you're requesting a variance of 7.1, is that in inches, so would it be 7.3?

Mr. Depuy: Actually, it's 7.1'. We work in tenths of feet.

Mr. Croughan: Okay.

Mr. Depuy: Not feet, inches.

Mr. Croughan: Okay.

Mr. Depuy: All right? I can convert it to inches if necessary.

Mr. Croughan: No. That's fine.

Mr. Depuy: Okay.

Mr. Croughan: And can you explain to the Board how the foundation was poured incorrectly?

Mr. Depuy: Yes. As you can see from the drawing, what happened was we had given a layout on the proposed house, and I think the concrete contractor had stretched a straight line. So if you look, it looks like the line is like this when, in fact, he should've offset our offset. So I don't know why we had a problem. We built 40 other homes and haven't had a problem, but for some reason, they came off the offsets in the wrong direction, so it cocked the house slightly which is what's caused the request for the variances.

Mr. Sierra: Is there any other lots that this has happened?

Mr. Depuy: No. This is the only one, and I think we've got about 40 homes in there now.

Mr. Sierra: I know you have a few more lots that are buildable.

Mr. Depuy: Yes. Yes.

Mr. Sierra: Can we be assured that this won't happen again?

Mr. Depuy: Yes. We are -- now we're coming back in and after they pour the actual footings, we're locating the footings to make sure that they're not in the wrong position before it gets too far gone.

Mr. Croughan: And, Mr. Depuy, for an area variance, you have to demonstrate the five points, so did you want to run through them for the Board?

Mr. Depuy: Okay. Is that the --

Mr. Croughan: Undesirable change.

Mr. Depuy: Right. So the change is minimal with respect to the overall alignment on the houses, so it doesn't really have an effect on the characteristic of the neighborhood, so I think that was the first one. And the second one, the problem is the house is already constructed, so from an economic point, it would be very expensive to knock it down and rebuild it, so it's an unachievable economic hardship.

Mr. Croughan: Well, you couldn't get property from a neighbor.

Mr. Depuy: No. We tried that. We looked at that. We tried to do a lot line change if possible, but then it created a need for a variance on the adjoining property, so we did actually look at that option to see if we could at least get rid of the side yard one. The front one wasn't going to happen, but when we tried to do that, it would require a variance -- make us have to have a variance on the next lot over, so it was going to cause more problems, so there was no way to achieve it. The two variances aren't substantial.

Mr. Croughan: Well, according to my calculation, it was 23.67 on the front yard, and the side yards were 16.8%.

Mr. Depuy: Okay.

Mr. Croughan: It's a factor.

Mr. Depuy: Okay. As far as the proposed various is going to affect any of the impervious coverage or runoff characteristics from the site, the site still has the same amount of impervious, so there's no additional effect on any kind of environmental impacts or anything like that, and then basically, it is a self-created hardship because the measurements were taken wrong by the contractor from the offset, so it was a self-created hardship.

Mr. Sierra: Any other questions from the Board? Chief, did you want to see a map?

Ms. Clark: Can you tell me exactly when Mr. Sierra said what are you doing for the future, you have more lots to be built, what preventive maintenance are you putting so this does not happen again?

Mr. Depuy: So basically, our procedure -- this one probably fell through the crack, but our procedure is we go out and stake the house out. We do a plot plan to make sure it meets code and everything. We stake the house out, and then we excavate it, and then when the masonry contractor comes in, he pours the footing, okay. We're putting that in the policy now where we check the footing location to make sure that he's followed our setbacks right because if we find that out soon enough, I mean, we'll have to have him knock it out then, but it's not a big expense at that point in time. This is, you know, the whole house had gotten built, so that's the procedure that we're going to follow from now on.

Mr. Sierra: Mr. Depuy, I mean, we're talking into consideration. I understand it's a new home. I've been to the site and I understand the topography doesn't really stand out.

Mr. Depuy: Right.

Mr. Sierra: You know, you really have to be looking for this issue.

Mr. Depuy: Yes.

Mr. Sierra: But to this Board, it's a huge issue to grant these variances, so please relay it to your client that, you know, we plan on looking at this issue now, but in the future, we don't want to have the same mistakes because we don't want to set a precedent to give out these variances as such because other people that are before this Board, and you know, we understand it's a new development. It's not really noticeable due to topography and other things of the lot, but we don't want to set a precedent of just granting these area variances. So I can't speak for the rest of the Board, but I know I'll be voting in favor of this, but please relay it to your client that this mistake cannot happen again.

Mr. Depuy: Yes.

Mr. Sierra: All right. We'll open up the public hearing for anyone wishing to speak for or against this project.

The public hearing was opened.

Mr. Sierra: If there's anyone on the phone, Martina, or anyone online.

Clerk: Nobody on the phone.

Mr. Sierra: No one?

Ms. Hansen: No one at this time.

Mr. Sierra: No one at this time. Okay. I'm going to go ahead and close the public hearing.

The public hearing was closed.

Mr. Sierra: Counselor, do you want to read the resolution?

Mr. Croughan: Is there any other comments from the Board?

Mr. Sierra: Any comments from the Board? Any comments out in the audience? Okay. Hearing none.

Mr. Croughan: Per an area variance in making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider whether, and those are the five factors we went over.

RESOLUTION GRANTING AREA VARIANCES

_____X

In the Matter of the Application of

HIGHLAND HILLS, LLC Findings of Fact

Premises located at 32 Kyleigh Way,
Middletown, NY 1/1/26

For An Area Variance for both side yards and
front yard

_____X

Background

Applicant appeared tonight September 16, 2020 and made their presentation. Applicant is the current owner of the premises, which is a single family home in a residential neighborhood. Applicant is seeking a front yard variance from the required 30 feet to 22.9 feet, a variance of 7.1

feet or 23.67%, and both side yards from 25 feet to 20.8 feet for a variance of 4.2 feet or 16.8%. The home is new construction that was not built in accordance with required set backs. Applicant has owned the subject property since 2001 and is under contract to sell. The purchaser has sold their home but cannot close on this home until the requested variances are granted and a C/O is issued. Currently the property is vacant. The meeting was properly called to order and the public was invited to voice their concerns, if any.

DISCUSSION

For an Area Variance the Applicant must demonstrate that the home meets each criterion as laid out on our application, City ordinance, and State Law.

The applicant states that the house was built with a mistake in the layout of the foundation. The applicant is seeking 3 area variances, first an area variance from the required 30 foot front yard, applicant has 22.9 feet, a variance sought of 7.1 feet; Second, 2 side yard setbacks, city requires 25 feet, applicant has 20.8, a variance sought of 4.2 feet.

For all three variance sought the Board would need to determine if an undesirable change in the character of the neighborhood or detriment to nearby properties will be created by granting the variance; Applicant stated neighborhood is mostly one family homes, in accordance with development by property, so there would be change in the character of neighborhood and would not be detrimental to surrounding properties.

The benefit sought by applicant can be achieved by some method feasible for the applicant to pursue, other than a variance; the applicant cannot purchase land from surrounding neighbors as it would lessen their square footage and potentially make them non-conforming. The lot size cannot be changed so to enhance the lot size.

The proposed area variance is substantial; first an area variance for front yard is 30 feet applicant has 22.9, the variance sought is 7.1 feet or 23.67%; Second and Third variance sought is for side yard set backs, which required is 25 feet and applicant has 20.8, variance sought is 4.2 feet or 16.8%. This is substantial, however the house was built in accordance to a foundation that was incorrectly laid out. If variance was not granted applicant would have to make drastic changes to the home. This is not to be used as a determining factor but weighed in with other factors.

The proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The change will not result in any negative environmental conditions or neighborhood and can be controlled through the Building Department.

Lastly, the alleged difficulty was self-created: It was self-created as applicant knew what he was purchasing and the foundation was laid out incorrectly.

All of the above are factors for Board to consider but any one negative response shall not necessarily preclude the granting of an area variance.

Public Discussion

When meeting was called for public comment it is noted that no members of the public spoke nor were any letters in opposition submitted.

The Board questioned applicant regarding the location of proposed home and how it came to be there, the impact of adding new homes, the variances sought and ability to use alternative means or lack thereof. There was considerable conversation over the percentage of variances sought and all were factored in when the Board considered the granting of variance along with all the other factors as detailed above.

Conclusions of Law

Applicant has demonstrated to this Board that the area variance's sought although substantial is unique to this property in that it is an existing lot with no other means to increase the lot size and will be in conformity with surrounding area. In addition the applicant will still need to comply with the DPW and/or Planning Board requirements. For these reasons the Board is approving the area variances sought.

Motion to approve the resolution by Mr. Luis, seconded by Ms. Clark.

Roll call ayes: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues.

Raymond Rodriguez
194 Linden Avenue
Area variances for a proposed 2-family residential home

Mr. Sierra: I know you were here before back in December. Since then we have a new Board member, maybe two. If you could just tell us about your project once again.

Mr. Rodriguez: I was here before to build a two-family home on 194 Linden. I came several times with different plans, and they were shut down because of not

enough parking space, so this time around, we came up with a new set of plans. They're not stamped yet, but shrunk the house widthwise but made it longer, so now there's driveways on both sides of the house, and there's parking in the back of the house which was Middletown's biggest concern was the parking in the street.

Mr. Sierra: Do you have those plans with you today?

Mr. Martinez: Yeah.

Mr. Croughan: Martina, are those the plans?

Clerk: Yes. Those are the plans.

Mr. Martinez: There should be a set of plans right here also.

Mr. Croughan: These are the only set of plans we have; right, Martina?

Clerk: Yes. Just this one set.

Mr. Croughan: So the Board will just be viewing these for the first time. Is this the set?

Clerk: Yes. That's the amended plan.

Mr. Croughan: So is this the layout?

Mr. Rodriguez: Hold on. You're missing one.

Mr. Croughan: So why don't I start with this picture here?

Mr. Rodriguez: Okay. That's the side view.

Mr. Croughan: This is the side view of the house?

Mr. Rodriguez: Yes.

Mr. Sierra: Did you change the unit sizes at all?

Mr. Rodriguez: The unit sizes, they're pretty much actually the same. They're both three-bedroom apartments. We just stretched the house to the back.

Mr. Sierra: But did you change the layout in order to stretch the house?

Mr. Rodriguez: A little bit.

Mr. Croughan: So this shows the front elevation and the rear elevation. I know this is difficult, and we'll probably require a little bit more time to review it.

Mr. Rodriguez: I could give you his set of prints if anybody else needs to see it.

Mr. Croughan: Well, why don't you explain the dimensions of the house for the Board, how tall, how long, how wide?

Mr. Sierra: Is there a map there that shows the footprint on the lot?

Mr. Rodriguez: 57 x 28'. 57' long by 28' wide.

Mr. Croughan: But do you have a picture of the house on the lot showing what the front, side, rear yard setbacks look like?

Mr. Rodriguez: No. That I don't have. This is what the architect gave me.

Mr. Croughan: I think that would be helpful for the Board if you were able to show what the house looks like on the lot, what the house looks like and then the house within it.

Mr. Rodriguez: Like an overview?

Mr. Croughan: I'm sorry?

Mr. Rodriguez: Like an overview from the top down?

Mr. Croughan: Well, almost like a survey showing how the house would be situated on the lot.

Mr. Rodriguez: Well, that I don't have on this set of plans. Is it possible you could give me a list of everything you want specifically?

Mr. Croughan: Sure. Let's continue along with the meeting, and at the end we can tell you what we're looking for.

Mr. Sierra: You said there was driveways down on both --

Mr. Rodriguez: Both sides. Both sides of the house, there's (inaudible) for driveways. It's in the plans there. It shows.

Mr. Sierra: It's in the plans, but you don't have a footprint of the house on the lot?

Mr. Rodriguez: Like that, no.

Mr. Sierra: Which is going to be important to see where the driveways go, where the parking spaces are going to be, how much on the lot. Understand? Like if you're looking straight down on this lot.

Mr. Rodriguez: Yeah. Like a bird's eye view.

Mr. Sierra: Yeah. Where the footprint of the house is.

Mr. Luis: Show the map you have that the last guy had.

Mr. Sierra: Yes.

Mr. Croughan: So what the Board is asking you --

Mr. Rodriguez: A survey of the property?

Mr. Croughan: Yeah. This shows the survey and the dwelling, the driveway going in, the setbacks, and all that.

Mr. Rodriguez: Okay. I'll see if the architect will draw that up.

Mr. Sierra: That's what we're really concerned with. You're going to be more scrutinized with the Planning Board with those other plans, but what we're concerned is with what you put within that lot size and how the layout is, if you have enough room for the driveways, where the parking's going to be.

Mr. Rodriguez: Well, the lot size -- can I see those plans because it tells you the lot size. This original house was 40' wide and the plans I just gave were 28' wide, so there's more than enough space on both sides. I cut it down on that end, so you have enough space for both driveways.

Mr. Sierra: Is there fences now? Is there going to be fences?

Mr. Rodriguez: There's nothing there now.

Mr. Sierra: My question is when you shrink a house, the width, that much, what did it do to the house inside that you lost?

Mr. Rodriguez: Well, we stretched it this way. It shrunk, but remember, this was side by side. What we did now, we put one above the other.

Mr. Sierra: Gotcha. Okay.

Mr. Rodriguez: That's what we did.

Mr. Sierra: All right. That makes a huge difference.

Mr. Rodriguez: That makes a huge difference.

Mr. Sierra: All right. Okay.

Mr. Rodriguez: So the first one is 28' wide by, what I'd say, 57 or 40? So it's a pretty big, first of all, apartment.

Mr. Sierra: Is there any other questions from the Board?

Mr. Croughan: It is a continuation of a public hearing, so if you want to hear from the public as well.

Mr. Sierra: Is there anyone on the phone or online, Martina, that wishes to speak -- wishes to be heard?

Clerk: No one.

Mr. Sierra: No one?

Ms. Hansen: Not at this time.

Mr. Sierra: Okay. Mr. Rodriguez, why don't we do this? Why don't keep the public hearing open.

Mr. Rodriguez: Okay.

Mr. Sierra: Get us a copy of that footprint, please.

Mr. Rodriguez: Sure.

Mr. Sierra: And none of us have had a chance to see those plans yet. If Martina can scan those plans or get us copies to the Board so we can review those plans.

Mr. Croughan: I believe the applicant normally makes copies of the plans.

Clerk: Yes, unfortunately, this size I wouldn't be able to scan or copy.

Mr. Sierra: Okay. So if you can make us copies. Can you make us five copies, please.

Mr. Rodriguez: Sure.

Mr. Sierra: Six for -- five copies. And most importantly would be the footprint.

Mr. Rodriguez: Yes.

Mr. Sierra: If you can get it to her office. We don't need them that big, but whatever size your architect will make them.

Mr. Rodriguez: Okay. Not a problem.

Mr. Sierra: We need to see them. If you can get us copies of that, get it to her office, she'll get it to us, and we'll have you back next month.

Mr. Rodriguez: Okay.

Mr. Sierra: All right?

Mr. Rodriguez: Not a problem.

Mr. Sierra: But if you addressed most of those issues, I don't see any other issues unless Mr. Woody, he's not here right now, we'll bring him up to speed on it.

Mr. Rodriguez: I'll call the architect tomorrow morning and have him set that for me, and I'll have them to her tomorrow evening.

Mr. Sierra: All right. So we'll table this until next month.

Mr. Rodriguez: All right.

Mr. Sierra: Thank you.

Mr. Rodriguez: Thank you so much.

Motion to table by Mr. Luis, seconded by Ms. Clark.

Roll call ayes: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues.

Schadrac St. Louis
90-90 ½ Sprague Avenue
Area variances for a proposed 2-family residential home

Mr. Sierra: Please state your name for the record.

Mr. St. Louis: Good evening, members of the Board. My name is Shadrac St. Louis, and I live at 90-90 ½ Sprague Avenue. Seeking a variance of a total of about 1,200 square footage as the existing lot is currently 6,220 square footage. So breaking the variance in allowing a two-family residence for 90-90 ½ Sprague Avenue will have no adverse effect on the neighborhood.

It should also be noted that Sprague Avenue is separated into two zoning districts, R-2 and I-2. The Industrial I-2 district is directly across the street from 90-90 ½ Sprague Avenue property, and we point this out to show that the neighborhood as a whole will not be negatively impacted.

The only physical method to achieve this proposed use of the two-family dwelling on this lot is to receive a variance. This request for an area variance, it is substantial. It is a 20-22% variance; however, there are other nearby family homes on the property, on the premises, or on the street which are substantially less in lot sizes, and I have documents. I have a map and an architectural plan, and I also have my architect present. Do we all have copies of the architectural plan and the comparisons of the different properties? Do we need more copies? Do you need more copies? Yes, you do? Okay. Let me --

Of course, the alleged difficulty is a self-created condition and, of course, as a guidance counselor within the Middletown School District at Middletown High School, I take great pride to live, work, and own a home within the wonderful City of Middletown. So granting this request will, one, enable me to contribute more to this wonderful community that I have the honor and pleasure to call home. It will also allow me to make this home purchase affordable, and having the apartment

will allow me to supplement my income. Furthermore, I believe that there's a need for affordable apartments in the City of Middletown, and this apartment will help meet that need.

Do you have any questions for me and, of course, I have my architect present that can help answer and clarify any questions or concerns.

Mr. Croughan: You're in an R-2 Zone, so as of right, you're allowed to have a two-family; is that correct?

Mr. St. Louis: That's correct. Yes.

Mr. Croughan: So today you're before the Board seeking a use -- an area variance because you need 7,500 and you're at 6,200.

Mr. St. Louis: Correct.

Mr. Croughan: So you're approximately 22% variance.

Mr. St. Louis: That's correct. The calculation that was made was between 24 to 22%.

Mr. Croughan: And are all the other homes on your street two-family?

Mr. St. Louis: We have, and based on the map that we have provided, there are many other homes within the area. Like, for example, the next door -- the adjacent neighbor is a two-family unit, and there are multiple two-family units within the neighborhood, and of course, it was not, you know, in terms of when I purchased the property, did not know that Mr. Sierra has a business within that same street so, you know, I am your neighbor actually. That's something that is, of course, it's a mixed zoning like I had pointed out.

Mr. Sierra: You recently purchased this home?

Mr. St. Louis: I purchased it back in February. February 4th, 2020.

Mr. Sierra: 2020?

Mr. St. Louis: Yes. And I was supposed to present to the Board back in March, and, of course, with what's happening, it was postponed to this month.

Mr. Sierra: And this house was originally built as a single family?

Mr. St. Louis: Actually, when it was built, based on what I was able to obtain, it was two units, but when the previous owner purchased it, they turned it into a one family, so it's within the zoning itself. It's R-2 where the house is located.

Mr. Sierra: But it was originally built as a single, or was it originally built as a --

Mr. St. Louis: According to some of the paperwork, this paperwork, it said that it was built -- and when I spoke to the previous owners, they said when they purchased it, it was a two unit.

Mr. Sierra: So is it going to require substantial work to convert it to a two-family?

Mr. St. Louis: No. It's just, of course, the house came with two baths, one upstairs -- one on the second floor, one on the first floor, so in terms of the work that it would require to really divide the house into two.

Mr. Sierra: And what are your proposed units for each apartment?

Mr. St. Louis: In terms of price or --

Mr. Sierra: No. In terms of livable space.

Mr. St. Louis: Livable space, it will be about 700 square footage per each unit, and it would be one bedroom. In terms of parking spaces, we have adequate parking spaces to park up to six cars but, of course, with the architectural plan, you can see that easily we could park four cars within the driveway.

Mr. Sierra: Any questions from the Board members?

Ms. Clark: I have a question. Are you living there right now?

Mr. St. Louis: No. I'm making repairs to the house right now.

Ms. Clark: Okay. And have you started to turn the upstairs into a separate apartment?

Mr. St. Louis: No. Not until we get the approval. In terms of repairs that I'm making, I have redone the floor. You know, I have repainted the whole house, but in terms of making those changes, I wanted to wait for --

Mr. Sierra: Who's living there now?

Mr. St. Louis: Nobody's living there now so, you know, in terms of I go back and forth between where I live now, and I have a friend that comes and helps out.

Ms. Clark: The question I have is each unit will be a one bedroom?

Mr. St. Louis: Yes.

Ms. Clark: 700 square feet approximate, and you'll be renting them?

Mr. St. Louis: I'll be renting one, one unit, the upstairs unit, and I'll be living in the downstairs unit.

Ms. Clark: And you yourself will be living there.

Mr. St. Louis: Yes.

Ms. Clark: And how much rent are you looking at?

Mr. St. Louis: I'm looking at, of course, with the upstairs, it would be between \$1,100 and \$1,200, and that's based on research that we have conducted within the area for a one-bedroom apartment, and that's also utilities included.

Ms. Clark: Oh, with utilities?

Mr. St. Louis: With utilities.

Mr. Sierra: So you don't plan on separating utilities.

Mr. St. Louis: Eventually, yes, but of course right now, given the fact that we were hoping for this to come before the Board back in March, and it's been six to seven months, so want to focus on really turning it into a two units owner occupied before we separate the utilities, so in a way it's just really focusing on paying the mortgage first instead of making that big expense.

Mr. Croughan: You're seeking a lot size variance, so is there any other way feasible for you to improve your lot size?

Mr. St. Louis: There's no other way.

Mr. Croughan: There's a house to the right, a house to the left, and a house behind you?

Mr. St. Louis: No. There's no other way feasible to really substantially, you know, extend the lot size. I have my architect. What do you think? Do you feel that there's any other way to do this?

Mr. Croughan: Well, if he's going to speak, he has to come to the mic and identify himself.

Mr. St. Louis: Yes.

Mr. Warren: Good evening. Andrew Warren. No. He's kind of landlocked between, you know, and I'm sure the next door neighbors if, you know, trying to purchase even part of their lots would make them in non-compliance. So, yeah, not feasible.

Mr. Luis: Right now, this is a two-family house now?

Mr. St. Louis: No, no. It's a one-family, hoping with the variance if it is approved hopefully, it will be turned into a two units owner occupied.

Mr. Croughan: It's in an R-2 Zone.

Mr. St. Louis: An R-2 Zone. Yes.

Mr. Luis: Just looking at the picture here, what kind of a structural change are you going to make as far as egress, making a second entrance or front and rear? How are you changing the structural --

Mr. Warren: Yeah. The back of what you have are floorplans, the last two pages, so turn it into two units,

Mr. Warren: The back of what you have are floorplans, the last two pages.

Mr. Luis: I didn't see that. I'm sorry.

Mr. Warren: Yeah. No. That's okay. There's a lot of information, you know, that we put into this, like all the comparable lots within the neighborhood that are existing two-families that are -- I believe we found 19 in a three-block area surrounding this, 19 homes in that same R-2 Zone that are two families in the R-2

Zone that are also on substandard size lots, so less than the 7,500 square foot lot size, so we wanted to show you guys that, you know, there are other houses, so the tax maps will show you that.

Mr. Sierra: The comps that you're pulling, as your client stated, I know the neighborhood well, but I have several concerns with this property.

One, it's been a single family home for a long time.

Two, it's an awfully small house now, which is going to take some research, but I'm not sure if you can even have, according to the New York State Fire Code, if you can have a one-bedroom apartment that small square footage.

Three is most of those multi-families or two-family units that you're talking about are much bigger homes that were originally built as two families.

Four, this Board has been -- I'm sure you've heard of the amortization that has been going in place here, and we've been reverting multi-families back to single and two-family homes, so the City of Middletown has been taking the approach of reverting more towards home ownership and owner occupied homes and not towards the direction of multi-families, and that's the will of the Mayor and the Common Council.

So those are several issues that you have. You have several hurdles. I mean, you already said that you stated this was a self-inflicted hardship. You just recently purchased the home, and it's been, what, 40 years a single family home since your last owners? I know the home well, so those are a couple of my concerns, that it's a small house. You're not comparing it to the house across the street which is, you know, four times the size. You know, I can't have you -- if you're going to compare, then compare apples to apples. Don't compare apples to oranges. You know, look at the lot size, but also look at the actual square footage of the building. You can't compare two-, three-bedroom units to a, you know, a two-family house -- a two-bedroom house and try to create two one-bedrooms. It's not the same, you know, so I don't want you to try to sway the Board. It's not. This is a small house to begin with.

Mr. Warren: It is large enough to meet the building code for size, so just --

Mr. Sierra: Okay. I have to take your word for it. You're an architect. You're the one that's going to stamp these plans.

Mr. Warren: Right. Right.

Mr. St. Louis: And also in terms of, you know, and prior to making this purchase, we were looking at many other owner occupied properties, but there were several within that block, Academy Avenue there was one for sale within the same -- it

was two units, owner occupied, and same square footage, whereas downstairs it had two bedrooms and upstairs had one bedroom, which was really smaller in terms of how they divided --

Mr. Sierra: And that could be. That could be a long time ago when, you know, during the Great Depression when people were dividing their houses, and the City has now taken the new -- I'm not sure what the word is, but --

Mr. St. Louis: Approach?

Mr. Sierra: -- new approach to actually take these houses that were divided, they were originally built as single families and have been divided. They're trying to revert them back to their original state. So I understand what you're saying, but your home has already been in this state for such a long time, and what happens is that that's why we have rental permits, so as soon as a house goes vacant or transfers ownership, it starts to revert back to a single family, and that's the approach that the City has been taking for quite some time now.

Mr. St. Louis: And I certainly agree with the --

Ms. Clark: I do want to make a couple of comments. One, I think it's refreshing to have someone have owner occupied, I really do, to keep everything nice because you're going to be in it and rent one. We are in desperate need of one-bedrooms. I'm in real estate. I know this. To me, one bedrooms are scarce. You see two-, three-bedroom, so I, personally, if everything's met, and I've seen a lot of 700 and less square footage, so as long as it meets, I believe, what the architect is saying, I think if everything else is met, I think -- having seen what you're saying, owner-occupied and a one-bedroom, I think is in the best interest for a community that is rated so.

Mr. St. Louis: Okay. And certainly if I may add, and you have driven by the house possibly several times in terms of, you know, the upkeep of the house in terms of when it was previously owned to currently, and I think that you can notice some changes in terms of the landscaping, in terms of flowers planted in front of the house, because I plan and I think the main concern with the City is that people are buying these two units and not living in them, so I plan to really upkeep and maintain the house. It's not only living there, but it's also an investment for me too.

Mr. Luis: I'm just going to revert back to my question. Obviously, you tell being on the fire side is I see two means of egress on the first floor, but I don't see any

egress for the second floor. There's only the staircase that goes down to the front lobby or front hallway I guess it is. I would have to check further into the Fire Code, but I would imagine that there's got to be a second means of egress from the second floor.

Mr. Warren: Well, the second means of egress by Code can be an egress window.

Mr. Luis: I'm not so sure about that, but I'll do some homework on it.

Mr. Warren: Yeah. By Building Code, it can. Yeah.

Mr. Sierra: Yeah. But our Local Code is more --

Mr. Luis: It might be Building Code, but it may not be Fire Code. Two different Codes.

Mr. Warren: Okay. Local regs I don't know, that I'm not aware of, and, you know, I can't speak to that, so --

Mr. Sierra: Again, this reverts back to what we're saying as a municipality, they're requiring our permitting process. It has been so much stricter that they're even requiring that, you know, these apartments and the landlords now provide insurance for any pets. You need to provide fire extinguishers, so it's been more strict. The City is making it more and more strict for rental property, which you would have to abide by if and when --

Mr. St. Louis: Currently, I have a total of 10 fire extinguishers within that unit, so each -- the basement will have its own. First floor will have two, second floor two, the attic will have two.

Mr. Croughan: Well, maybe, Martina, we could ask Mr. Theron to take a look at it and Mr. Welch.

Clerk: Sure.

Mr. Sierra: Any other questions from the Board? I'm going to go ahead and open the public hearing now.

The public hearing was opened.

Mr. Sierra: Anyone on the phone or online, Martina?

Clerk: Nobody on the phone.

Ms. Hansen: No one is online.

Mr. Sierra: Okay.

Mr. St. Louis: We have some members, of course, neighbors within the Fourth Ward that I had invited who would willing to speak.

Mr. Sierra: If you want to speak, please approach and state your name and address.

Ms. Blon: Hello. My name is Maria Blon, and I live at 5 Earle Street in Middletown, which is also the Fourth Ward, and I think this is a great thing to have, affordable apartments for people to live in that are well cared for. The house is beautiful, and Schad's been fixing it up very nicely, and I think it's a great investment for Middletown.

Mr. Sierra: Thank you.

Mr. Blon: Hello, members. I'm Tom Blon, 5 Earle Street, and yeah, the home is -- I've been helping. We've made a lot of improvements, and I think it's an asset to the neighborhood.

Mr. Sierra: Anyone else wishing to be heard? Okay. We're going to go ahead and leave the public hearing open.

Mr. St. Louis, we're going to table this matter till next month. We'll leave the public hearing open for comments. I'd like to get the Building Inspector. He's not available tonight, so I'd like to get his intake on this home. I'm sure he'll be contacting you. He might want to inspect the house first, but I'd like to see his remarks and maybe the remarks of the Fire Inspector, so we'll table this until next month.

Mr. St. Louis: Okay.

Motion to table by Mr. Luis, seconded by Ms. Clark.

Roll call ayes: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues.

Motion to adjourn at 7:59 p.m.

Roll call ayes: Joel Sierra, Deborah Clark, Don Luis, Wendy Rodrigues.

Respectfully Submitted,

Diane Genender, Transcriptionist