

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader said there is no other method.

Mr. Wilmer agreed.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Wilmer believes it is substantial for the property to be permitted as a short-term rental without being the owner's primary residence. He reiterated his belief that this would create an undesirable change in the character of the neighborhood in an R-2 zone district.

Chairman Bader disagreed, noting that owners often do not reside in the home when they are renting long-term. This is no different.

Mr. Roberts questioned the definition of neighborhood. If it is the zone district, then approval for a short-term rental in that district would encourage applications for others within that same district. The result of that would affect the character of the neighborhood.

Chairman Bader believes a zone district does not define a neighborhood.

Mr. Brazill noted that city council has already defined the areas where it is permissible for short-term rentals without the primary residence requirement. It is important to abide by the ordinance, as it is written, unless there are exceptional circumstances. Otherwise, it only encourages more variance applications.

Chairman Bader said it is their responsibility to review each application independently, using the balance test, to determine if an applicant qualifies for a variance.

Ms. Harris pointed out that the purpose of the Zoning Board of Appeals is to grant variances, when warranted.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Wilmer said there would be no physical or environmental change.

Mr. Brazill and Chairman Bader agreed.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw said it is self-created.

Mr. Wilmer and Chairman Bader agreed.

Chairman Bader asked if there were any additional comments or questions. Hearing none, he called for a motion.

Mr. Wilmer moved that the board **Deny** the application as submitted and presented for the following reasons:

#1. The granting of the variance will produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.

#3. The variance is substantial.

Mr. Brazill seconded the motion, which *failed* to carry with a roll call vote of (3-3):

Ryan Wilmer	Voting	YES
John Roberts	Voting	NO
Roger Brazill	Voting	YES
Julie Harris	Voting	NO
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	NO

Chairman Bader asked for an alternate motion.

Mr. Brazill moved that the board **Table** the application to allow for a full board vote.

Mr. Wilmer seconded the motion, which carried with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 02 Application #23-017: 239 Ontario Street, SOUTH OF TRACKS LLC, requesting an Area Variance necessary to operate a Short-Term Rental from a property that is not their primary residence. In accordance with §850-110.5 of the Zoning Ordinance, within the R-O zone district, the Short-Term must be the owner’s primary residence. Applicant seeks a variance from this requirement. (Tabled from February 15, 2022)

Mr. Wilmer made a motion to lift the application from the table. Mr. Roberts seconded the motion, which carried with a vote (6-0).

Michael Fiorentino, business owner, presented his proposal at the meeting last month and is returning to address additional comments or questions. He pointed out that he has received letters of support from all of the closest neighbors on the street.

Mr. Brazill asked if anyone submitted letters of opposition to the project. Mr. Fiorentino said there were none. Mr. Brown confirmed.

Mr. Brazill inquired about the adjacent properties. Mr. Fiorentino said the property to the west is a multi-family home. The property to the east has a business on the lower level with apartments above. Across the street is the Finger Lakes Trail, the railroad tracks, and Factory 243, which is comprised of apartments and commercial businesses. To the rear of the property are warehouses and storage buildings.

The Public Hearing for this application was held at the last meeting and is now closed. Chairman Bader directed the board to repeat the five-part test, for additional discussion.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Wilmer believes it will not have a negative impact. It is zoned Residential-Office, which is similar to a Mixed-Use district.

Chairman Bader agreed.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Roberts sees no other feasible method.

Chairman Bader and Mr. Wilmer agreed.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Wilmer and Mr. Roberts do not believe it is a substantial variance.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts finds no adverse effect.

Mr. Brazill and Mr. Wilmer agreed.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Roberts and Chairman Bader believe it is self-created.

Chairman Bader asked if there were any additional comments or questions. Hearing none, he called for a motion.

Mr. Roberts moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Wilmer seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 03 Application #23-028: 223 Bristol Stret, CANANDAIGUA GARDEN APARTMENTS, requesting an Area Variance necessary to convert an office space into a one-bedroom apartment with an area for 505 square feet. In accordance with Schedule 3 of the Zoning Ordinance, the minimum area for a one-bedroom apartment is 750 square feet.

Bryan Kniffen and Arion Aghaie of Ma Maison Du Lac LLC, represented the applicant. The office space is no longer being used. They would like to convert this space into an additional one-bedroom apartment.

Chairman Bader opened the Public Hearing. No one came forward. Mr. Brown said no written comments were received. Chairman Bader closed the Public Hearing and directed the board to the five-part test.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Roberts believes the size of an additional apartment, among other apartments will have no negative impact.

Chairman Bader does not believe a 505 square foot apartment is too small. It will not change the character of the neighborhood or affect nearby properties.

Mr. Wilmer agreed.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader mentioned moving walls to create a bigger space, but that is likely not a feasible option.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader noted that mathematically the variance is substantial, but the impact is not.

Mr. Roberts agreed.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts said there would be none.

Mr. Roberts, Ms. Harris and Chairman Bader agreed.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Brazill said it is not self-created.

Chairman Bader and Mr. Wilmer agreed.

Chairman Bader asked if there were any additional comments or questions. Hearing none, he called for a motion.

Mr. Roberts moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.
- #5. The hardship is not self-created.

Mr. Wilmer seconded the motion, which carried with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 04 **Application #23-033: 76 Chapin Street, LISA DEAN, requesting an Area Variance necessary to construct an addition to an existing shed, resulting in a structure with an area of 336 square feet. In accordance with 850-30.B of the Municipal Code of the City of Canandaigua, storage buildings shall not exceed 165 SF.**

The applicant has decided to pursue an alternate option. Application is withdrawn.

ADJOURNMENT

Mr. Roberts moved to adjourn the meeting at 7:50, seconded by Ms. Harris and carried by unanimous voice vote (6-0).

Richard E. Brown, Secretary

Joseph Bader, Chairman