

ZONING BOARD MEETING

MARCH 19, 2002

PRESENT

Chairman Powell Keery  
George Fellows  
John Dole  
Louis Grammatico  
Michael Flavin

Donna Stassen, Zoning Board Secretary  
Richard Olson, Village Attorney  
Thomas West, Superintendent of DPW  
Jack Crooks, Building Inspector

Stephanie Tandle  
Karl Joyce  
Jim Fitzsimmons  
John Lootens  
Mark Melich  
Larry Fennity  
William Arthur  
Beverly Arthur  
Timothy Peer

111 West Ave  
111 West Ave  
300 Reynolds Arcade Bldg.  
4156 Buffalo Road  
22 Ontario Blvd  
139 Maplewood Ave  
8947 Paris Hill Road  
8947 Paris Hill Road  
64 Lyell Road

ABSENT

PUBLIC HEARING

The application of Karl Joyce, New Dimensions Photography, 111 West Ave, Newark NY for the following variances:

1. Use Variance to operate a photo studio with interior and exterior settings on property located at 41 West Ave, Spencerport NY; whereas, this is not an allowed use without a Use Variance granted by the Zoning Board of Appeals, pursuant to Chapter 140-9G in an R-2 Residential District. This property currently has a Use Variance to operate as a landscaping business.
2. Area variance to allow parking spaces for sixteen (16) motor vehicles whereas, the combined minimum required parking spaces is twenty one (21). This being based upon six spaces for the three unit apartment building and 15 spaces for the proposed photo studio space one for every 250 square feet. This is pursuant to Chapter 140-28A(5) in a residential district.
3. Area variance for a proposed eight (8) foot high fence, 187' in length , for the purpose of privacy screening ; whereas, the maximum height allowed is 6' and the maximum length is 65', pursuant to Chapter 140-31A(4) in a Residential District.

Representing Mr. Joyce is Attorney James Fitzsimmons.

Attorney Fitzsimmons stated that three years ago he represented Mr. and Mrs. Ames longtime owners of this property for a use variance to operate Ames Lawn Care Service.

Attorney Fitzsimmons submitted a copy of the deed for the property as part of the record the deed shows that this property is subject to a right of way. There is a twenty- foot driveway easement on the property, which is an encumbrance on the property meaning that it could never be used for developmental purposes.

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The first variance back in 1996 was for a special permit and a variance to erect an accessory building 40 X 60 feet.

The second variance was for a use variance, that variance was given to the Ames personally,

Attorney Fitzsimmons also submitted copies of the tax bills for the property to give the board an idea of some of the expenses.

Attorney Fitzsimmons asked listing realtor John Lootens for a history of the listing on this property.

John Lootens stated that the property was listed on June 13, 2001 for \$349, 900 including the business and all related equipment. Many landscape businesses have been contacted by Mr. Ames and myself, but no landscapers came forward to purchase the property. The price was then reduced to \$269,000 on August 16<sup>th</sup> removing the business and the equipment. This was done to increase the marketability of the property for people other than landscapers. On December 1<sup>st</sup> the price was reduced to \$249, 000. Still the right property did not appear. This is a unique piece of property. Mr. Joyce's plan would appear to put the land to the best possible use and he would also take advantage of the rental property.

Attorney Fitzsimmons: John, have a lot of different realtors shown the property?

Mr. Looten: Yes, more calls than showings, but still a lot of activity on the listing. It was a multi listing.

Attorney Fitzsimmons: Would you consider this a unique property in its configuration?

Mr. Looten: I could find no comparable properties in the immediate area of Spencerport or Ogden.

Mark Melick of Lamplighter Realty is the buyers agent he submitted an investment analysis (file).

Mark Melick: As a landlord you could not make a reasonable return off this property,

Karl Joyce : As it is zoned presently there is no economic income to be gained on this property.

Attorney Olson: This is truly an unusual piece of property.

Attorney Fitzsimmons: I am sure the board knows but could you put it on the record, what is in the back of this property.

Mark Melick: The telephone company is back there with their telephone poles lying parallel with their property line. It seems like they have been there for umpteen years, if you walk in the vicinity you can smell creosote. The property is surrounded by the Village Office, Telephone Company, 8 unit apartment building, railroad crossing behind the property. It is surrounded by commercial property.

Larry Fennity architect for the project concurred with others that this was a unique piece of property. The proposed use will be beneficial to the neighborhood.

Attorney Fitzsimmons: This certainly will not change the essential character of the surrounding neighborhood.

Mr. Joyce: We have a nice system for photographing primarily high school seniors, one of our big drawing points is indoor and outdoor poses.

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The advantage here is the areas we can draw from, there is incredible potential in this area. We get involved with the community offering discounting services.

Chairman Powell Keery: What hours of operation seem realistic to you?

Mr. Joyce: We try to get them in during the day, but business demands some nights and weekend. Our biggest business comes in the summer. There will be two (2) photographers on staff.

The requested fence is to deter vandalism and will also be used as a backdrop, which means the fence will be attractive.

Public Hearing closed at 7:40

Attorney Olson: The financial information has not been countered so you have to take the numbers for what they are. A couple of years ago, Mr. Ames came in for a use variance we took a chance, and I would really like to thank you for all the improvements you have made over the past few years. Building Inspector Jack Crooks report (file) pretty much says it all. This type of business proposed is by appointment, there is plenty of municipal parking where I don't see this to be a problem. As far as the criteria set forth by the state statute as far as a use variance, I think they have all been well addressed tonight.

It is now up to the board to determine whether or not the criteria/applicant has met the burden.

Jack Crooks: I concur with Mr. Olson's observation, that this is certainly a lesser impact on the area than the existing use variance.

George Fellow: Will there be chemicals used?

Karl Joyce: It is almost entirely digital.

John Dole: Will there be any combustible items stored on the property.

Karl Joyce: No.

Attorney Olson completed the short EAF form, the application was determined to be an Unlisted Action and the following resolution was offered and filed in the Village Office.

RESOLUTION NO 115

INTRODUCED BY CHAIRMAN POWELL-KEERY  
SECONDED BY MICHAEL FLAVIN

Resolved that the Village of Spencerport Zoning Board has determined that the proposed action to grant a use variance for Carl Joyce to operate a Photography Studio known as New Dimensions Photography on property located at 41 West Ave will not result in any significant adverse environmental impact.

SEQR STATUS; Unlisted Type 2 Action

Ayes: Powell Keery, Dole, Fellows, Grammatico, Flavin

Nays: None

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Jack Crooks: I would also like to add as a condition, that future approvals by the Planning Board and Architectural Review Committee must be granted.

George Fellows: Asked Mr. Joyce to be more specific in regards to hours of operation.

Discussion ensued regarding hours of operation.

George Fellows: Have all neighbors been notified?

Donna Stassen: Yes.

RESOLUTION NO 116

INTRODUCED BY GEORGE FELLOWS  
SECONDED BY MICHAEL FLAVIN

Resolved that the application of Karl Joyce, New Dimensions Photography, 111 West Ave, Newark, NY for the following variances be **approved**:

1. Use Variance to operate a photo studio with interior and exterior settings on property located at 41 West Ave, Spencerport, NY whereas, this is not an allowed use without a Use Variance granted by the Zoning Board of Appeals, pursuant to Chapter 140-9-G in an R-2 Residential District. This property currently has a use variance to operate as a landscaping business.
2. Area Variance to allow parking spaces for sixteen (16) motor vehicles; whereas, the combined minimum required parking spaces is twenty one (21). This is based upon six spaces for the three unit apartment building and 15 spaces for the proposed photo studio space one for every 250 square feet. This is pursuant to Chapter 140-28A.(5) in an R-2 Residential District.
3. Area Variance for a proposed eight (8') foot high fence, 187 in length for the purpose of privacy screening; whereas, the maximum height allowed is 6' and the maximum length is 65', pursuant to Chapter 140-31-A(4) in an R-2 Residential District.

Such decision is based on the following criteria:

1. Environmental Impact Statement has been satisfied
2. No financial viability if property is used only as rental property.
3. No other obvious uses for this property have been established.
4. No other landscape corporations interested in purchasing existing business.
5. Such use variance will not change the character of the neighborhood.
6. Any and such hardship was not self-created.

Furthermore the following conditions are imposed on such approval.

1. Hours of operation are not to exceed 9:00 p.m. on any day of the week.
2. That the applicant must conform with the recommendation of the Building Inspector, that all approvals from the Zoning Board are conditional based upon the site plan review by the Planning Board and/or approvals from the Architectural Review Board.

Ayes: Powell-Keery, Dole, Fellows, Grammatico, Flavin

Nays: None

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Chairman Powell Keery thanked the board members for changing the meeting dates to accommodate her schedule.

**ADJOURNMENT**

Motion was made by John Dole seconded by Michael Flavin and carried unanimously that the meeting be adjourned at 8:00.