

CITY OF NEW BRUNSWICK
BOARD OF ADJUSTMENT
FEBRUARY 25, 2013
MINUTES
7:30 p.m.

I. ROLL CALL

x	Nancy Coppola,
x	John Cox,
x	John Sutton
	Kim Maloney
x	Margaret Chester
	Scott Elias
x	Sue McElligott
x	Doug Sheehan (alt)
	Peter Ventrice (alt)
	Jose Madera (alt)
x	Tierream Houser (alt)

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARDS JANUARY 28, 2013 MEETING

Motion to approve Sutton
 Second Chester
 Approved unanimously

**V. COMMUNICATIONS AND REPORTS-
 Resolutions of Memorialization of Approval**

A. RAFAEL GOMEZ, Z-2012-09, Site plan and variance application for the construction of an addition and the paving of a parking area located at 125 French Street, Block 30, Lots 36.01, 38, and 39, Zoning Districts: C-2A and R-5A

Motion: Cox
 2nd: Chester

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney		

Margaret Chester	x	
Scott Elias		
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

B. MARILYNN WINSTON, Z-2012-10, Variance application for the use of the house as a three-family dwelling located at 24 Seaman Street, Block 175 Lot: 29.01, Zoning

District: R-5A

Motion: Cox

2nd: McElligott

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester	x	
Scott Elias		
Sue McElligott (alt)		
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

C. THOMAS A. PAPPALARDO, Z-2012-13, Site plan and variance application for the use of the property as a place of worship located at 12-18 Harvey Street, Block 30, Lot 30.01, Zoning District: R-5A

Motion: McElligott

2nd: Chester

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester	x	
Scott Elias		

Sue McElligott (alt)		
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

D. ANNUAL REPORT OF THE ZONING BOARD OF ADJUSTMENT, Review of the variances granted by the City of New Brunswick's Zoning Board of Adjustment during 2012 calendar year in accordance with NJSA 40:55D-70.1 of the Municipal Land Use Law.

Motion: McElligott
 2nd: Chester

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester		
Scott Elias		
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

VII. OLD BUSINESS

None.

VIII. NEW BUSINESS

- A. JOHN SUDIA, Z-2012-14**, Site plan and variance application for the construction of a multi-family dwelling located at 100-102 Hamilton Street, Block 47 Lots 22 and 23.01 Zoning District: IN-1

Tom Kelso, Esq – The applicant is seeking approval of a 3-story, 31-unit apartment building. The Board approved this applicant for a 25-unit building in 2011 along with variances and 17 parking spaces.. The applicant has acquired the adjacent property and proposes to expand the building footprint and add six units. The applicant is proposing 31 units and 38 parking spaces. They are providing more than 1 space per unit, but a parking variance is required.

Other variances including a 3 ft height variance are sought. Since the original approval, the lot across the street, also known as the grease truck lot, has been approved for a large mixed-use, 15-story building with the size of the building immediately across the street being 4 stories.

John Sudia – owner:

At the time of the original approval, the adjacent owner did not want to sell to Sudia. However, shortly after the original approval, the adjacent owner approached him about a sale due to a death in the adjacent property owner's family. This led Sudia to revise the plans in order to develop a better designed project.

Ed Bogan – Engineer.

(A-1 – rendered existing site plan showing the two existing houses on the properties. A-2 site plan of the existing proposal, rendered).

The approved site was a design challenge due to its small size. The addition of the adjacent property allowed the parking configuration below ground to be more efficient and to meet the parking design standards to increase the parking from 17 to 38 spaces. The site is now 31,000 s.f. and most parking will be provided underground. Access will be provided off of Hamilton Street, as in the approved plan. The parking plan meets the City's design standards.

A variance for rear yard setback is requested, but only the parking extends to within 5 feet of the rear lot line as the building is set back further from the line. Where there is a 1.2 ft rear setback, there is an existing building with a blank wall adjacent to this area.

Most of the lighting on the site is internal to the building as there is not a lot of open area. Trash storage is provided inside the building. A transformer is provided in the front and it is screened and shielded. There is an underground detention system to mitigate storm water discharge.

George Simcox, Architect.

The building is 3 stories with underground parking. The ground floor will have a management office and 2 apartments, plus bike storage area. Six parking spaces are provided as surface parking.

Below ground is parking, utility areas and storage.

The 2nd floor includes 2 studios, 8 1BR and 4 2BR units. The 3rd floor has a similar layout with 10 studios and 5 2BR's.

The exterior will be brick and hardiboard planks plus other architectural elements.

Keenan Hughes, Planner

The new plans are an improvement over the existing plans as more parking is underground, bike parking is added and the building fits the site better. A use variance is needed due to the private nature of this project but the master plan, re-exam report, zoning ordinance and the redevelopment plan for the property across the street recognize the need for housing of this type. The site is appropriate for this type of housing due to its proximity to the university. The site is close to the lot size recommended by the re-exam report for having a higher density. Additionally, the parking provided is in excess of what re-exam report suggest.

The project meets the purposes of zoning A, E and G.. As to the negative criteria, the project would be permitted if the use was developed by Rutgers and the recent re-exam report has proposed development of this type in this area, so this type of use is contemplated. The height variance would not have a detrimental impact on adjacent property due to the similar nature of adjacent properties.

The setback variances can be justified on both a flexible C2 basis and hardship basis. The benefits of providing enclosed underground parking outweigh the detriments of the setbacks. The building is also set back substantially in the rear when it is above ground.

The parking variance is justified as the parking ratio is higher than what was previously approved and is less of a variance than what was previously approved. Enclosed bike storage is also being provided to encourage use of cycling instead of car use.

Board comments:

Sutton – this is similar to the original project but improved.

Public:

Charles Kratovil – What are the proposed rents? Sudia – They will be similar to rents in similar projects.

Kratovil –Is there a common area to congregate? Kelso – It is limited, but the development across the street will have a large public outdoor plaza and kiosks that can provide this kind of space.

Kratovil – Is there an elevator

Sudia – No, but first floor is accessible.

Mr. Patterson read a series of conditions suggested to be attached to any motion to approve the application.

Motion to approve the project with the conditions cited by the Board Secretary: Cox
Second: Sutton

	Yes	No
Nancy Coppola, Chair	x	
John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester	x	
Scott Elias		
Sue McElligott (alt)	x	
Doug Sheehan (alt)	x	
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)	x	

B. SCOTT AND KATY ELIAS, Z-2012-16, Variance application for the use of an additional bedrooms located at 138 Hamilton Street, Block 50, Lot 15, Zoning District: R-5A

Tom Kelso, Esq – the property is an existing house his client acquired in 2006. The property had 2 third floor bedrooms at that time but the applicant has since found out that these were not recognized bedrooms. They are seeking approval of these bedrooms and a parking variance. There is no net increase to the occupancy of the property as the owner agrees to maintain the existing 8 person occupancy. They seek to have a 3-person occupancy for the ground floor apartment and 5 persons in the 2nd floor apartment.

Mr. Elias is a board member but has a right to appear before the board. Board Attorney Aithal reviewed the applicable law providing that a board member can appear before the Board but that board members must evaluate the application objectively.

Scott Elias, Owner – He acquired the property in 2006 with the understanding it was a 2-family building and had the property inspected at that time. The 3rd floor bedrooms were occupied at that time and used as bedrooms. When it was re-inspected by the City in 2012, the housing inspectors said the 3rd floor bedrooms were not approved. (A-1 – code violation notice)

(A-2 MLS listing of the house from 2006) The MLS listing advertised the unit as a 2-family with 3 bedrooms in the 2nd unit. The unit also received 2 certificates of continuing occupancy at the time (A-3) signed by Chief Inspector Mahoney and Construction Code Official Schrum. Additionally, there was a fire inspection certificate. These documents led Mr. Elias to believe the bedrooms were approved and he was surprised to hear they were not.

(A-4) is a zoning application from the previous owner, Steven Middleton, requesting zoning approval for the bedrooms on the 3rd floor for either bedroom or recreation space. Attached is a zoning permit stating that the rooms were only legal for recreation space, not bedrooms. This document was not presented to Elias by the seller or seller's attorney prior to or after the closing.

The bedrooms were continuously used as bedrooms since 2006 and there were no citations between then and 2012 for this use.

He is asking the Board to validate the use of these two bedrooms with the restrictions as to occupancy of 3 persons in the ground floor apartment and 5 persons in the upper apartment.

(A-5 floor plan) The 1st floor apartment has 2 bedrooms and is approved for 4 persons. One bedroom is legal for 3 persons and the other for one person. He would limit the occupancy of this unit to 3 persons.

The 2nd floor apartment would be occupied with 2 persons in bedroom 1, and 1 person in each of bedrooms 2-4 for a total occupancy of 5. This apartment has slightly less than the required common area for 5 persons but the applicant has sought a minimum occupancy waiver. The shortage is 23-30 sq ft. The waiver application was approved by the Chief Housing Inspector, Michael Mahony. The unit meets all other housing codes to the best of his

knowledge. He believes the 3/5 split of the 8 persons in occupancy is a better split of the occupancy.

Parking has never been provided on the site and it is not possible to fit parking on the site due to the narrowness of the lot. He has rented the units for 6 years without problems with the tenants needing parking.

Kelso: The City Engineer raised an issue about the front landscaping. (A-8 photo of front landscaping) and (A-9 photo of the general streetscape). (A-7 survey of the property) The survey shows the stoned area is partially in the City ROW. The property line is at the bottom of the steps. However, this condition exists at several properties along this street. The Engineer has asked the railroad ties be removed. The applicant asks the Board to approve a condition to allow the applicant to ask the City for a license or easement to allow the existing condition to remain.

The City Engineer also identified that the rear fence encroaches onto the adjacent property and wants the fence removed and relocated onto the Elias property. The applicant asks that the fence be allowed to remain and instead that the applicant send a letter to the adjoining property owner advising them of the situation and asking that it be allowed to continue. If the other property owner objects, they will remove the fence.

Board Questions:

Chester – was the fire approval based on the 3rd floor being used for recreation? Kelso – the rooms had bedrooms in it at that time. Elias – there are exit windows in the 3rd floor area.

Sutton – how was the apartment listed in 2006? Kelso – it was listed as a 4 BR unit in the 2nd apartment.

Public:

Charles Kratovil – who owns the adjacent property with the fence encroachment? Kelso – not known at this time.

Mr. Patterson read a series of conditions suggested to be attached to any motion to approve the application.

Motion to approve the applications with the conditions cited by the Board Secretary: Sutton
Second: Chester

	Yes	No
Nancy Coppola, Chair	x	
John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester	x	
Scott Elias		
Sue McElligott	x	
Doug Sheehan (alt)	x	

Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)	x	

C. 12 LAUREL PLACE CORPORATION, Z-2009-18, Variance application for the construction of a two-family duplex located at 12 Laurel Place, Block 413, Lot: 17.01, Zoning District: R-5A

The application was postponed until the March 18 meeting. This was announced to the public. No additional notice will be made.

D. 34 SICARD REALTY, LLC, Z-2013-01, Site plan and variance application for the construction of a sorority house located at 34 Sicard Street, Block 80, Lot 37.01, Zoning District: R-5A

Thomas Kelso, Esq. - The proposal is for a 18-bedroom sorority house, which requires a use variance, FAR, height and various bulk variances and a parking variance.

Mitch Broder – principal of the applicant:

The site is 100x100 and has an outdated single family home (A-1). The site is immediately behind the Rutgers Student Center and is on the zone line from the IN-1 zone, where it would be a permitted use.

Greek life is rebounding on the Rutgers campus and the lodges are now better managed and organized than in past decades. (A-2 photo of 46 Union, frat they developed and A-3, photo of 11 Union, another frat they developed). The 34Sicard building will have a brick facade and will fit in with the existing neighborhood. The site conditions will be improved, screened parking will be provided as well as bike parking. The building will compliment the other recent development in this area. (A-4 Aerial site locator map)

They have successfully developed and managed other frats in the area and this will be another successful project.

Ed Bogan, Engineer:

(A-5 rendered existing site plan and A-6 rendered proposed site plan)

The building fronts on Sicard Street with parking provided in the rear with access off of Morrell Street. A bike parking area is also provided. Landscaping is provided around the site. The parking lot grading will be raised so that the site will drain to the street instead of onto adjacent properties. There will also be a detention basin. There is also no need for a transformer pad as they will be pole mounted. The perimeter of the property will be fenced with a board-on-board fence. The parking area will be lighted with wall mounted fixtures.

George Simcox, Architect.

The first floor has common areas and an accessible bedroom. The basement has recreational area and utilities.

The 2nd floor and 3rd floor have 8 and 9 bedrooms, respectively.

The height is 34.8 feet which is the top of the center peak roof, which adds to the classical form of the building.

Chester – are the bathrooms sufficient for this many occupants? Simcox – the design follows what is required by the building code. Broder: there are 3 sets of full fixtures in each of two bathrooms.

Coppola – what are the cooking facilities? Simcox reviewed the location of the kitchen on the first floor and other common areas.

Keenan Hughes, Planner -

The applicant met with the Rutgers Office of Fraternity and Sorority Affairs to discuss changes in Greek life at Rutgers. Greek life is reviving but many are using informal houses for frats. The University has no plans to develop frats themselves. There are 17 registered frats and sororities with many located very near this site. The location is next to the Rutgers Student Center, gym and transportation system. The project supports the purposes of zoning A, E and G. The project supports the recommendations of the City's master plan re-exam report. The site is also particularly suitable. The project will not negatively impact on the zone plan.

The height variance is justified as it is minimal and improves the aesthetics of the building. The FAR is consistent with what the City envisions for this area as it would be compliant across the street. The aesthetics are improved with a lot of landscaping to mitigate the impact of the building's size.

There is a rear yard variance as site has two rear yards.

The parking variance is justified as 15 spaces are provided and it is adjacent to the campus transportation services. Bike parking is also provided.

Board Questions:

McElligott – will the perimeter fencing be “softened”? Hughes – the fence will provide a good screen.

Cox – where would frat signage be located?

Broder – probably on the front.

Public:

None

Mr. Patterson read a series of conditions suggested to be attached to any motion to approve the application.

Motion to approve with the conditions cited by the Board Secretary: Cox

Second: Sutton

	Yes	No
Nancy Coppola, Chair	x	

John Cox, Vice Chair	x	
John Sutton	x	
Kim Maloney		
Margaret Chester	x	
Scott Elias		
Sue McElligott (alt)	x	
Doug Sheehan (alt)	x	
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)	x	

IX. ADJOURNMENT 9:45 PM