



**Zoning Board of Appeals  
City of Cortland  
Regular meeting of July 13, 2020**

A regular meeting of the Zoning Board of Appeals was held on Monday, July 13, 2020 at 5:30 PM via Zoom.

Present: Commissioners Scott Steve, Thomas Larson, Brett Barnes, Karen Leahy, Abigail Cleary, Maria Manning

Absent: Commissioner Juliene Ray

Staff: Corporation Counsel Ric VanDonsel, Interim Director of Code Enforcement Mike Tenkate, Secretary Devon Rainbow

**Item #1 – 32 William St. (Catalano) – Area Variance**

- Extension of deck

No one present to speak on this application. It was determined that they need the dimensions of the deck entirely and where that is in relation to the property line and to the garage set back. Then they would need to do what kind of impact it is on the volume.

Motion to table until the next meeting.

Motion: Comm. Manning

Second: Comm. Leahy

Approved: Ayes – 5

Nays – 0

Corporation Counsel has excused himself from 52 Clayton Ave (Pace).

Motion to table items 3-9 until August Meeting.

Motion: Comm. Cleary

Second: Comm. Larson

Approved: Ayes – 5

Nays – 0

**Item #2 – 52 Clayton Ave. (Pace) – Interpretation**

Chair Scott Steve explained that there is an open hearing for this now. Scott Steve stated he would like to go back through and discuss some of the items and issues that were discussed before and discuss this a little more. We had back in November 4<sup>th</sup>, everybody was on the Board the board then and had the discussion after we received the Judge's order at that time and we dealt with basically we discussed the 5 occupants of the subject property 52 Clayton to discuss what the definition of family is. They read through the exhibits they had, listed them all, identified them all as exhibits, and discussed them to a certain extent. They discussed and determine what the 300-4 of the Zoning Code is and make sure that was the definition or try to come up with some kind of definition but after that in the theory of thinking of how to handle this situation, how we are going to go from here? Think it best if we just address this thing. We will discuss it tonight and then we will write a response back so that we have a response that can be given, and be done to the judge to keep that uniformity as best we can. So in doing that, the first process thought would be best is to have and hopefully that this is something that the Code Office and the City will use is the family of function equivalent questionnaire that was forwarded to Mr. Pace as well, in trying to address this formally so that there is a questionnaire so that when they had to review the next step which was the 2<sup>nd</sup> question of whether or not the response were implied enforcement uniformly, that this would help in answering those questions as well. That is why I (Scott Steve, Chair) put it together and apologize for it being so last minute but I put that together to try to come up with that uniformity and answer those questions. They were forwarded to everyone for review. Scott Steve thinks it covers everything in the 300-4 and gives a baseline that should be asked by everyone.

Mr. Paces stated the uniformity isn't as much as the functional family as those students are gone and ZBA discussed functional family when he had his meeting about a year ago and then the ZBA discussed it last November and came up with the same ruling that it wasn't a functional family. The ZBA keeps staying on this functional family but the uniformity is the process where you are treating everyone equally or you are not and that is the main contention here. He (Mr. Pace) sent in some addresses and the first meeting you didn't want to, you wanted to take is as an individual house, you (ZBA) weren't willing to talk about uniformity as far as the rest of the other landlords in town. There are houses that have more than five people in them.

This is to establish consistency and it will be used as a guide in the future. There were two questions for them to address. Question 1 is: Whether the five occupants of the subject property satisfy the definition of the term family, as a term is defined by section 300-2 of the City Code. The intent there is that they (ZBA) discussed this on November 4<sup>th</sup> meeting which is in the minutes which are recorded. Also wanted to make sure all these questions that are in this document, he asked Mr. Pace again to do it and he respects his willingness to decline because it all has changed. He just wants to make sure this is something we can utilize in the future for these other 17 properties that were listed in this. As well as being able to use it in the future for consistency. The 2<sup>nd</sup> question was: Whether the response from the City of Cortland per Bob Rhea Zoning Officer of the City of Cortland have applied and enforced the City of Cortland Code uniformly and equality with respect to properties similarly situated that of the petitioner. Question 1 doesn't apply anymore to this case. Mr. Pace owns 17 properties. Mr. Pace is unable to answer questions at this time regarding the number of students. There are 4 out of 17 were 5 or more bedrooms.

Commissioner Manning suggest that they should discuss what he put in exhibit 5 in his application as it adds in 3 more to the 17. Can't determine the number of bedrooms from his exhibit so that would fall under the, don't have the information to make an analysis.

Gerry Ruggerio landlord of properties near some of the ones listed. He stated the real issue here isn't the number of bedrooms you can count on Zillow, it's the City has to authorize some property owners more than 3 for instance 57 and 59 Clayton if had asked the City for copy of the permits, one house allowed 5 students and the one across the street allowed 7 bedrooms. City authorized this use with other properties. CZO's & rental permits have been given.

Mr. Pace stated 37, 43, and 49 Clayton were mistakes and shouldn't be on the list.

Gary Searles stated that it has never been legal to have more than 3. Why are there CZO's that allow it?

ZBA can't give directive to employees. Scott Steve would like to write up motions for Response to Judge.

Motion to close Public Hearing.

Motion: Comm. Cleary  
Second: Comm. Barnes

Approved: Ayes – 5  
Nays – 0

Motion to Designate Scott Steve together with Counsel to draft a response for review of Zoning Board of Appeals at its August meeting.

Motion: Comm. Larson  
Second: Comm. Cleary

Approved: Ayes – 5  
Nays – 0

**New/old business:**

Nothing to report

**Approval of minutes**

Motion to approve the minutes as presented from June 8, 2020.

Motion: Comm. Larson  
Second: Comm. Cleary

Approved: Ayes – 4

Nays – 0  
Abstention – 1 (Comm. Leahy)

**Adjournment**

Motion: Comm. Manning  
Second: Comm. Barnes

Approved: Ayes – 5  
Nays – 0

**I, SCOTT STEVE, CHAIR MEMBER OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NY, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 13<sup>TH</sup> DAY IN JULY IN THE YEAR 2020.**

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**SCOTT STEVE, ZBA CHAIR MEMBER**