

MEMBERS PRESENT: Mr. Todd R. Richards, Mr. Daniel Schierer and Mr. Bernard Skripek

OTHERS PRESENT: Stenographer Jim Gallagher, Zoning Officer Eugene Goldfeder, Michael Santanasto, Conflict Solicitor for the Board,

CALL TO ORDER: The Hearing was called to order at 7:30 PM, by Chairman Richards.

MINUTES: The minutes of the September 18, 2018 meeting were approved on a motion by Mr. Scheirer, seconded by Mr. Skripek. The motion carried 3 in favor, none opposed.

REORGANIZATION OF BOARD: Mr. Schierer moved, seconded by Mr. Skripek, that the officers remain the same; Mr. Richards as Chair, Mr. Skripek as secretary. The motion passed unanimously.

CONFLICT SOLICITOR: Mr. Skripek moved, seconded by Mr. Schierer, to appoint Michael Santanasto, as conflict solicitor for the Catasauqua Zoning Hearing Board. The motion carried unanimously.

APPEAL #1-19: The Chair read the Notice of Appeal of Renate Bruehl, 120 2<sup>nd</sup> Street, Catasauqua into the record.

Attorney Steven Boell entered his appearance representing the Applicant.

Prior to calling any witnesses Mr. Boell said that the basement has a heating system, direct ingress and egress to the outside, and that depending on how the Board rules on the two requests for interpretation he believes that if required, the variance on the heated indoor living space is a de minimus variance since the deficiency is only 305 sq. feet, approximately 10% of the requirement. He also said that he feels that granting the special exception is appropriate since there are other multi-unit, and apartment units in the neighborhood. Attorney Boell provided the Board with a packet of exhibits that his witnesses will be discussing during their testimony.

Mrs. Renate Bruehl was sworn in. In response to questions from Attorney Boell, Mrs. Bruehl said that she is the owner of 120 2<sup>nd</sup> Street; purchased the property in June 2001 at which time it was a two unit property. Sometime in 2003 her husband wanted to cut the bills in half and contacted the Borough. She said she was not aware that by his doing so the building would revert back to a single unit. Mrs. Bruehl said that Exhibit A are copies of recent PPL bills for the property showing that there are two bills, one for each of the two units, on separate accounts.

Mrs. Bruehl testified that she wants to convert the building into three (3) units. She said there are other multi-unit buildings in the area. Approximately one year ago there was a fire that started in the kitchen, since then she has been living in a hotel while repairs and renovations are planned. She testified that the basement was a laundry area and storage for the building. It is heated by radiators, like the rest of the house.

In response to questions from the Board, Mrs. Bruehl said that nobody has been living in the house for the last fourteen months, since the fire. Attorney Boell

commented that Mrs. Bruehl was called only to introduce herself and to give some groundwork for the others who will testify, they will go into detail.

AUDIENCE QUESTIONS:

Christine Weaver, 530 Walnut Street, questioned why she is applying for a three unit conversion. Mr. Boell said that her nephew, a later witness will address that issue.

Vincent Smith, 125 Front Street, said that she had testified there were many multi-units in the neighborhood and asked if she can identify them. Mrs. Bruehl said the house next door is a six unit structure, across the street there are apartments over the factory and there are multiple units in other buildings. Attorney Boell said that the list of multi-unit properties in the neighborhood is a later exhibit that will be discussed by a subsequent witness.

Mr. Jeff Dalessandro was sworn in. In response to questions from Attorney Boell, Mr. Dalessandro said he is the great-nephew of the Applicant, and does real estate as his business. He said the fire initially started in the kitchen and there was smoke and other damage to the house. The Fire Chief had said that the building needs to have its wiring updated. He testified that with insurance and permitting processes it took until the end of June before they could begin any work. Originally he thought the property was two units and only recently found out that it was only one unit.

He said they are requesting three dwelling units on the property. He said the third floor has always been there and was always used as part of the building. He testified that having the three units would allow the Applicant to add to her income and also the expenses of the renovations. He said that right now she cannot live there, the roof needs to be replaced. Mrs. Bruehl has asthma and cannot live there in the dusty conditions. He said it is a cumulative effect, the fire and smoke damage and the roof damage. They retained SCF Architects to prepare the drawings for the conversion.

In response to questions from the Board all of the kitchen, plumbing, and other fixtures and facilities are still there for the two units. There is still a full second floor apartment. He said the roof is old, rotted and not up to code. He said the building is zoned for two heating units. It is all connected, however there are two thermostats, and two separate oil tanks for the building.

AUDIENCE QUESTIONS:

Ms. Weaver, 530 Walnut Street, said he mentioned the reason for the third unit is to maximize and get additional income. She also questioned whether there were permits issued and revoked. He said that he was unaware of that situation. Ms. Weaver commented that he said he would be in full compliance with all the Borough Codes. Mr. Dalessandro responded that the roofer took off the roof and that while he was supposed to get permits he did not.

Mr. Smith questioned as to whether he had any notes or pictures that the roof was deficient. It was indicated the architect has some pictures. In response to a question from Mr. Smith, Mr. Dalessandro said that the tenant was living there when they originally purchased the property. He also responded that the contractor said that he would take care of the permits, he didn't and so he was thrown off the job. Attorney Boell objected to further questions about the contractor as being irrelevant to the case.

Upon redirect by Attorney Boell, Mr. Dalessandro said he is serving as his aunt's assistant on this project. He acknowledges and will follow through on all permits.

Samantha Falcone was sworn in. She said that she is the principal in SCF Architecture, LLC, she received her Bachelor of Architecture from Carnegie Mellon University and worked has worked as an architect for twenty-four years receiving her State License in 2002. She prepared the plans for the renovation and conversion to three units as show in Exhibit C. She then went over the pages of the exhibit for the Board. She said that there will be six parking spaces on the property to comply with the Zoning requirement for off-street parking. Each of the spaces complies with the dimensional requirements of the Ordinance. She indicated that Plan A 2.1 shows the basement and first floor as they exist and the proposed renovations. She pointed out the steps at the rear of the building which lead into the basement area. Plan 2.2 describes the second floor as it exists and the proposed third floor apartment. Plan 2.3 shows the new roof. In response to further questions she said that the first floor contains 1,061 sq. feet, the second floor 1,091 sq. feet and the third floor as it existed 543 sq. feet for a total of 2,695 sq. feet not including the basement. The basement has an additional 971 sq. feet bringing the total, including the basement to 3,666 sq. feet. She said the property is located in the R3-High Density Zoning District and that in that district that conversions are not permitted in accordance with Attachment 1, however footnote 1, which she read. Without the basement the building is deficient by approximately 9% of the requirement of 3,000 sq. feet, but the basement has been used as living space, it is heated, dry and used for laundry facilities. If that is included the building exceeds the minimum 3,000 sq. feet.

With respect to the renovations she said the third floor will increase from 543 to 1,043 sq. feet, by raising the knee wall. The previous roof was a double gable design. The new roof will be a single gable roof with raised knee walls so that there will be an eight foot height ceiling over the entire 1,043 sq. feet of the floor area. She said that this type of roof is easier and less expensive to build as well as giving more living space on the third floor. She testified that the impervious coverage for the entire property will be at 68%, below the limit of 70%.

In response to further questions she said that according to Attachment 1 the conversion to apartment is not allowed except in accordance with Note 1. Attachment 3 addresses dimensional requirements and states that apartments must meet certain dimensional requirements. There is a Note 2 to this table that indicates the lot area is per dwelling unit, however Table 1 on the Permitted uses has no reference to this note. The Applicant's position is that this particular note is only applicable to newly constructed apartments, not conversions.

Ms. Falcone explained that Exhibit D is a layout and the square footage of the floors of the building, as well as a layout of the roof. Exhibit E is a chart which shows all the properties in the neighborhood of 120 Second Street and indicates the use of that building. The box highlighted in gray shows conversions, the box highlighted in blue shows non-residential uses. She said that when reviewing the chart it is apparent that there are not many lots that meet the apartment size

requirement, most of them are smaller than this property. She then went over the general requirements for the granting of a special exception with respect to traffic, noise, odor and similar matters and said she does not believe there will be any adverse impact to any of these caused by the conversion.

In response to questions from the Board Ms. Falcone said there would be direct parking from the alley onto the lot which is allowed by Ordinance. She said the end wall will stay where it is and the parking lot will be level with the road and a new retaining wall will be built farther into the yard to stabilize the ground level with the neighbor. She said there will be cuts in the sidewalk to accommodate the parking lot.

Ms. Falcone testified that the lot is 137' feet by 31'. In response to further questions from the Board Mr. Boell and Ms. Falcone both said they believe School Street, while called a street functions as an alley and should be considered as such. It was also indicated that there is a definition on a story in a building and that a basement is not always considered a story. She said she does not know the ceiling height, however Mr. Dalassandro believes it to be seven feet. He said that he is 6'3" and has no difficulty walking in the basement.

#### AUDIENCE QUESTIONS:

Chris Weaver questioned whether a fire escape is required. Ms. Falcone said a fire escape is not required since the building will have sprinklers and there will be a fire tower at the rear of the property. In response to additional questions from Ms. Weaver, she said the sidewalk will remain but will have the crossover by the parking lot. Ms. Falcone, in response to a questions relating to storm water management, said that with the square footage that is being added she does not believe that storm water regulations apply to project.

Brian McKittrick, 321 Mulberry Street, questioned whether the parking lot would be paved, to which she responded it would be. He said that they may a runoff issue from any rainwater leaving the parking lot area. In response to a question concerning a fire escape Ms. Falcone said that the plan calls for a deck structure for egress although it is not required.

Vince Smith questioned whether the third floor was finished or occupied. Ms. Falcone said she was told that the second and third floor were all one unit, both floors were being used. She does not know for sure that was the case.

Regarding the photographs that were submitted with the application, she said that she did not take the pictures. She said that there was only one egress out of the basement, through the rear of the building. As the building currently exists there are 2,695 sq. feet.

Mr. Smith then questioned how she believes there will be no negative impact on the Borough's aging sewer system and storm water system. The project is taking approximately 30% of current pervious surface and making it impervious, that will have impact on storm water. He also questioned whether the remaining outdoor space would be sufficient for the tenants. Ms. Falcone said it would be.

On redirect by Attorney Boell, Ms. Falcone said the dimensions of the parking comply with the ordinance, the total impervious coverage is below the maximum limit for the zone and that with respect to adverse impact on storm water and snow shoveling there would be no difficulty in managing that. To the extent the

roof is being renovated she said that it will be fully dry walled and made useable. She said the basement is not an independent living area, it is a shared area.

At this time Mr. Boell reserved his right to present his closing arguments and his right to call rebuttal witnesses.

AUDIENCE INPUT:

Chris Weaver, Brian McKittrick and Vince Smith were sworn in. Mr. Smith said that when the Applicant bought the property it was a two unit structure and in 2003 they requested it be revised to one unit only. Having more than one meter base on the property is a billing issue it does not necessarily relate to the number of units in the building. He said that from his review of the files there are only fourteen properties in the Borough that are multi-unit residential in the R3 Zone. He said the basement and attic, even though heated, are not living space and should not be counted toward the overall building area. He sees this only as a self-imposed hardship, it is usable as it exists as a single family home. His additional concern is that she will not always live there and then the neighbors will be subject to possible absentee landlord and other issues. He is also concerned with the parking, it will negatively impact the Borough and neighbors; snow will wind up in the street when the parking lot is shoveled out.

Upon cross-examination by Attorney Boell, Mr. Smith denied that he ever had negotiations with Mrs. Bruehl on this property. He said he did have negotiations with Mr. Keller, being interested in purchasing the property when Mr. Keller sold it.

Mr. McKittrick read from a portion of the 2009 edition of the International Fire Code of what is a habitable space. Mr. Boell objected, saying the Fire Code is not the Zoning Ordinance.

Mr. Boell then questioned Ms. Falcone on the definition of an alley in the Zoning Ordinance.

CLOSING STATEMENTS:

Attorney Boell said that the Applicant is here for a special exception and as such no hardship is needed. He said there are some general standards they must comply with and that to deny the special exception application if they comply with the standards, there must be an atypical problem. The architectural plans have been designed to comply with all of the Code conditions. If the interpretation is denied they believe that a less than approximately 10% variance on the indoor heated living area is a de minimis request; even if the basement is not livable the building size is close to the requirement. He said there is no Footnote #2 in Table 1 relating to the lot dimensional requirements for conversions.

At this time the Board went in to Executive Session to discuss the case. The Board returned from Executive Session.

DECISION OF THE BOARD:

Mr. Richards moved as follows:

1. That the minimum tract area and lot width requirements set forth in Section 280-26, Attachment 3, Footnote 2 do not apply to conversions, but only to newly constructed apartments; and
2. To deny the requested interpretation of the Zoning Ordinance that the basement can be included in the total "heated indoor living space"

thereby not counting towards the 3,000 sq. foot requirement for apartment conversions; and

3. Approve the requested 305 sq. foot variance from Section 280-26, Attachment 1, Note 1 as a de minimis variance; and
4. Approve a special exception permit pursuant to Section 280-26 and 280 Attachment 1 Table of Permitted Uses by District Primarily Residential Districts, to convert the existing single family detached dwelling with a condition that only two units may be developed on the property;

The motion was seconded by Mr. Skripek and passed unanimously.

APPEAL #2-19:

The Appeal of Giovanni Landi 601 Front Street, Catasauqua, PA, regarding the Property located at 413 Second Street.

Mr. Richards read the Notice of Appeal.

Mr. Landi was sworn in.

In response to questions from the Board, Mr. Landi said that the property is on 2<sup>nd</sup> Street, Catasauqua and that he wants to use the office that exists inside the building as a sole practioner office for drug and alcohol counseling. He said the office space is there already. He said that at the time he applied last fall for the storage in the garage area he did not realize he was going to be coming back to the Board. He said the office will be used for one patient at a time by appointment only.

In response to a question from the Board Mr. Landi said the office area is in the general area of the garage that was previously approved for storage. The Zoning Officer said the Ordinance requires one off-street parking space for every 300 square feet in an office; therefore he will be required to provide one off-street parking space which the applicant has indicated he will be able to meet.

In response to further questions by the Board, Mr. Landi said there is a separate access to the office with an emergency exit to the rear; there is a rest room in the area and that sessions will be by appointment only. He said the only sign will be a small sign on the door, so that clients will know what door to enter; otherwise there is no need for any signage.

Mr. Landi said that he has a renter, in the garage are mostly pizza shop materials and some of his vehicles stored there.

In response to questions from the Audience Mr. Landi said when he bought the property that is what was intended. Mr. Landi said that he needed storage and now his brother needs an office for his practice. When Mr. Shubert owned the property there was a house and a garage with an office in it.

Mr. Gennaro Landi was sworn in.

In response to questions from the Board, Mr. Gennaro Landi said that the hours would be within normal business range, with the latest he would be there would be until 9 pm. Mr. Gennaro Landi said the activity is considered a professional service. He is regulated by the Department of Social Services as a Counselor.

**DECISION OF THE BOARD:**

Mr. Scheirer moved, seconded by Mr. Skripek, to approve the variance request of Mr. Giovanni Landi to establish a mental health counseling, drug and alcohol counseling office in a portion of the building located at 413 Second Street, with a condition that the practice be for a sole practitioner, professional office, with clients seen by appointment only, with one designated off-street parking space provided for the use.

**ADJOURNMENT:**

There being no further business the hearing was adjourned at 10:45 pm.

Respectfully Submitted,

Eugene L. Goldfeder  
Zoning Officer