

**OFFICIAL MINUTES
CITY OF NIAGARA FALLS PLANNING BOARD
June 16, 2021**

A regular meeting of the City of Niagara Falls Planning Board was held Wednesday, June 16, 2021 at 6:00 PM in Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Chairperson Tony Palmer
Joseph Giaquinto
Joseph Sarkees
Charles MacDougall
Timothy Polka
Schurron Cowart
Joyce M. Williams
Robert W. Burns

Staff Present:

Eric Cooper, Director of Planning
James Bragg, Planner II / HPS

Board Members Excused:

Michael Murphy

Attendees:

Dennis DiSimone
Jeralynne DiSimone
Jena Copelin
Daniel Marione
Rod Davis

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA — FOR THIS MEETING

A motion to approve the Agenda was made by MR. POLKA, and seconded by MS. COWART.
Motion **UNANIMOUSLY APPROVED**.

APPROVAL OF MINUTES:

1. Meeting held May 5th, 2021

Motion to approve the draft minutes for the meeting dated May 5, 2021 was made MR. GIAQUINTO and seconded by MR. POLKA. Motion **UNANIMOUSLY APPROVED**

PUBLIC PARTICIPATION (*All Non-Agenda Topics*): **NONE**

PUBLIC HEARING: **NONE**

ACTION ITEMS:

1. **Recommendation to City Council:** Disposal of City-owned real property located at 2415 Weston Avenue, SBL# 144.58-2-62 (R2-B). Disposition/Sale to Paul Chatmon, owner of 2419 Weston Ave.

Mr. Giaquinto asked whether the property is currently vacant. Mr. Cooper responded that it is. Mr. Cooper added that the applicants stated intent for the purchase is to use the property as additional yard and garden space for their adjacent property.

Motion to recommend approval of the disposal of subject property to the applicant made by MR. GIAQUINTO and seconded by MR. POLKA.

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POLLED VOTE:

Mr. Giaquinto	Yes
Mr. Sarkees	Yes
Mr. MacDougall	Yes
Mr. Polka	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Mr. Burns	Yes
Chairman Palmer	Yes

Motion UNANIMOUSLY APPROVED

2. **Recommendation to City Council:** Disposal of City-owned real property located at 631 25th Street, SBL# 159.26-1-30 (R3-B). Disposition/Sale to Allen and Marie Penfield, owner of 633 25th St.

Mr. Giaquinto asked whether the property is currently vacant. Mr. Cooper responded that it is. Mr. Cooper added that the applicants stated intent for the purchase is to add the lot to their adjacent property.

Motion to recommend approval of the disposal of subject property to the applicant made by MS. COWART and seconded by MS. WILLIAMS.

POLLED VOTE:

Mr. Giaquinto	Yes
Mr. Sarkees	Yes
Mr. MacDougall	Yes
Mr. Polka	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Mr. Burns	Yes
Chairman Palmer	Yes

Motion UNANIMOUSLY APPROVED

3. **Site Plan Review:** 8485 West Rivershore Drive, SBL# 161.17-3-48 (R1-B). Proposal by Jena Copelin, owner of property, to construct a 576 sq. ft. detached accessory building and associated site development.

Jena Copelin and Daniel Marione introduced the application. Want to build a garage. They've just recently completed other improvements to the retaining wall and sidewalk on the property. They would like more space and the ability to park within the garage.

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Dennis DiSimone resident of 8479 West Rivershore Drive spoke. He attended the ZBA meeting the night prior and did not believe it was satisfactorily decided. He contended that the Site Plan is inaccurate and would be a nuisance to them. He believe there are alternate methods to achieve the desired result. He asked that the PB table the application and send back to the ZBA. Mr. DiSimone also provided photos of the utility pole.

Chairman Palmer responded that the Planning Board cannot send projects back to the Zoning Board of Appeals for rehearing.

Chairman Palmer also asked how the Site Plan was inaccurate. Mr. DiSimone responded that there is a utility pole 5 feet from the property line in front of the garage. Mr. Polka stated that although the pole is 5 feet from the property, the garage is 4 feet and there is additional width between the corner of the garage and the overhead doors. Mr. Polka did not feel the utility pole is problematic to the use of the garage. Chairman Palmer further stated that the applicant would be responsible for moving the utility pole should they choose to do so.

Mr. DiSimone again asked to uphold the zoning setbacks. Mr. Cooper responded that that is not the charge of the Planning Board and further that the ZBA is the body responsible for that. Chairman Palmer added that it is in conformance with the zoning because the ZBA approved the variance.

Mr. Polka stated that the only reason this is before the Planning Board is because the property lies within the Waterfront Overlay District.

Mr. DiSimone believes the garage is out of character with the neighborhood and that he bears the burden of their garage. He stated that he may have to seek legal relief outside of the Planning Board.

Ms. Copelin provided renderings of the property with the garage. Chairman Palmer asked how the garage might impact the view from neighboring properties. Ms. Copelin stated that there are currently a number of trees in the same location as the proposed garage and should not substantially change the viewshed.

Mr. Polka asked whether the proposed garage is similar in setback to other properties along the street. Mr. Marione tried to stay in conformance with neighboring properties but with the retaining wall decided it was better to move closer to the front lot line.

Mr. DiSimone added that their property is much wider than other lots on the street and could accommodate the building. He further questioned how emergency services are to access this with such a small setback.

The Planning Department recommended the following five (5) conditions be required if the Planning Board were to approve the Site Plan:

- Condition 1: Environmental Assessment (SEQR): The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated April 27, 2021.

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- Condition 2: Compliance: Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void
- Condition 3: Expiry Date: Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- Condition 4: Landscaping: In lieu of the required tree planting and given the developed nature of the site, the existing landscaping is sufficient to fulfill zoning requirements.
- Condition 5: Set-backs: Applicant shall provide the Planning Department a revised Site Plan showing the layout as approved by the ZBA on 6/15/2021. The construction must maintain and shall not expand the building footprint beyond that indicated on the site plan on file with the Planning Office. The Bulk and Density Standards of an R1-B District, per Zoning Chapter 1312.3, is for a minimum side yard setback of 6 feet, the minimum front yard setback of the street shall be 30 feet, and the maximum height of a detached garage shall be 16 feet to peak. Construction of this garage as proposed is only allowed if the Zoning Board of Appeals grants (i.) a side yard area variance of 2 feet, (ii.) a front yard setback area variance of 18 feet, and (iii.) an area variance for a maximum height of 22 feet 6 inches.

Motion to approve the Site Plan subject to five (5) conditions made by MS. COWART and seconded by MS. WILLIAMS.

POLLED VOTE:

Mr. Giaquinto	Yes
Mr. Sarkees	Yes
Mr. MacDougall	Yes
Mr. Polka	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Mr. Burns	Yes
Chairman Palmer	Yes

Motion UNANIMOUSLY APPROVED

OLD BUSINESS: NONE

NEW BUSINESS: NONE

PLANNING REPORT / COMMUNICATIONS:

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Mr. Cooper updated the Board on two items related to City Council. One item is for Short-Term Rentals and the other is a modification of the process to amend the Zoning Code. He stated that he has not yet received anything from the Council to place this on the Planning Board agenda. When this is done, he will send it to the Board.

Chairman Palmer believes these changes are intended to diminish the voice of the Planning Board and that City Council will do what they want. Further, the Board takes their time to volunteer and then to be slapped in the face.

Mr. Polka asked whether existing Short Term Rentals are grandfathered in. Mr. Bragg responded that at the expiration of their approved Special Permit, they may not be eligible to reapply – effectively not grandfathered.

Mr. Bragg provided an overview of existing Short Term Rental regulations and addressed many of the comments and concerns the Board has heard in the past regarding this issue including regulation of long-term rental units, enforcing the existing code, crime at STR, pirate operators, and technology challenges. Further he stated that Short Term Rentals have been beneficial to some neighborhoods by stabilizing them and providing investment to these derelict houses, and, to protect this, he suggested that the City be sure not to “throw the baby out with the bathwater”. Ultimately, he feels it is important that the regulations not so difficult that potential operators do not shift to the black market. Mr. Bragg added that, as a resident of the community, he feels STR’s can be unfairly targeted when long-term rentals can be more problematic. He would like to see more communication in the drafting and review of this local law.

Mr. Giaquinto asked about the process moving forward and whether the Planning Board will review these Local Laws. Mr. Bragg provided a history of the creation of the Short Term Rental zoning ordinance and how an amendment would be made.

ADJOURNMENT:

Motion to adjourn made by MR. GIAQUINTO. Seconded by MR. POLKA. Motion **UNANIMOUSLY APPROVED.**

Meeting adjourned at 6:45 PM.