





indicated no, because a fence does not currently exist, but more importantly the operations described by the Applicant indicate that the outside area is on the south side of the building and therefore the building itself shields the residence. Chairperson Bebak confirmed with Applicant that the dogs when outside will be in the front or on the side. There is a man door off the back of the building.

Mr. Sherman inquired about the dog waste and how that will be handled and controlled on the premises. Ms. Barrett confirmed that she will have service for the removal of waste. They are not opened yet, however does plan to have everything sanitary disposed of.

Mr. Frick asked about the area for the dogs specifically a paved area opposed to grass area. Ms. Barrett is still working on the plans for the construction, eventually there will be turf. Mr. Hayes referenced 20 dogs in the application and now 10 dogs, asked for confirmation. Ms. Barrett advised right now room for 10 dogs and does want to expand, but right now feels this is best. Mr. McCabe advised that it's his understanding that if you want to build another structure must come back to the board again for special use of that structure. If the Board wanted to limit to 10 dogs, would the applicant be okay with that. The applicant advised she was on the conservative side and Mr. McCabe questioned if she wants 15 dogs. Chairperson Bebak asked the applicant if she wanted to apply for 15 dogs which she confirmed yes. Mr. Hayes asked about the restaurant that is also within the same boundaries line. Specifically if there was an local or state ordinance states there needs to be a certain amount of separation Code Enforcement Officer Schieber responded that the Town does not have any specific, possibly through NYS Department of Health, but he doesn't see an issue as they are separate building that are not connect and it is allowed. Mr. Hayes asked about the patio, which currently exists and is parallel to Orchard Park Road. Mr. McCabe asked about the greenhouse area. Ms. Barrett does not have a plan for this, just ideas right now. Mr. McCabe wants to make sure not extending to the patio at this time, confirmed no. Mr. Hayes asked applicant about contacting the Department of Health about separation between the two. Code Enforcement Officer Schieber said doesn't believe so and specifically reference to a pet supply store along with takeout restaurant currently in operation within the Town.

Questions from the public:

Joesph Steffan 1366 Orchard Park Road, - Had several questions about the project.

Will the building need to be heated? Code Enforcement Officer Scheiber confirmed heat as the building will be in operating 24 hours per day. Yes, meets the requirements.

The area fenced off for the dogs is directly next to the creek which runs right to the school and expressed concerns for the dog feces running right into the pipes. Ms. Barrett indicated they would be picking up the dog waste materials and disposing of it properly.

Reference an area not that is not part of the kennel. Chairperson Bebak confirmed that the applicants advised not part of the kennel and not part of this application for a variance.

Barrier in which where the dogs will be outside, Mr. Steffan questioned the hours. Chairperson Bebak confirmed that the question was already asked and the hours will be 7am and 7pm and overnight

inside and attended. Mr. Steffan asked about barrier for sound of the dogs and currently there is on all ready.

Concerns about the sound near where his home and asked about fencing. Code Enforcement Officer Schieber believes there is an existing fence and confirmed that the tallest height in fencing allowed by code is 6 feet. Mr. Schieber noted that this scenario is a commercial property next to a commercial property so less scrutinized. Mr. Steffan stated he has commercial mixed use property and pointed out on the map where his house is located. Ms. Barrett said still working on what type of fencing and where the fencing would be. She does plan on solid vinyl fencing for sections. This way the dogs will not see out and then the dogs will also not be seen.

Mr. Steffan questioned again about the dog waste. Ms. Barrett again reiterated that it will be picked up, placed in a bag and disposed of properly by a service. Mr. Steffan wanted to make sure it would not be tossed in a dumpster. Confirmation that the service will be taking it away. Chairperson Bebak advised that if there is a smell, to contact the Code Enforcement office.

Lynn Kaminski 83 Allendale - Concerned about the noise from the dogs. Code Enforcement Officer Schieber advised that he has been inside the building and it is fully insulated relative to heat and some sound. At night the dogs will be inside or taken out always with staff. He then referenced the map where there is fencing and advised that the dogs will be along the side or front of the building. And finally referenced the code enforcement on noise ordinance. The town has animal control officer that patrol the entire town and deal with any issues. Chairperson Bebak confirmed that the dogs will be inside. Ms. Barrett asked where Ms. Kaminski's property is to be aware for consideration.

Mr. McCabe asked both the Deputy Town Attorney and Code Enforcement about the legal description for both this dog kennel and the next project agenda items is the same, does the special permit have to have legal description for just the area, or sufficient to identify on the survey for each building. Deputy Town Attorney Stachowski will take it under advisement. Mr. McCabe just wanted to confirm before going to the Town Board for final approval. Chairperson Bebak felt that if the Town Board wanted a separate legal description it could be it that time.

Mr. Steffan wants to clarify 15 dogs and the dogs will be inside kenneled inside unless with staff member outside. Ms. Barrett advised that she has policy each dog on lease and one at time.

Motion by Bebak, seconded by Sherman to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Sherman recommend zoning from C2 to C2(s). McCabe request to amend motion to have restrictions to have dog run area on south and west side of the building, no more than 15 dogs and fencing sold vinyl. Bebak amended motion with this additional language, seconded by Sherman.

Ayes: All

Noes: None

Motion Carried

**SPR2024-02**

A request Molly Barret of Gentry Holdings for special use permit, Section 120-17 (A) 3 for property located at 1340 Orchard Park Road for building renovation for the restaurant, service of alcohol and site renovation for a patio, changing the classification from C-2 to C-2(S).

The restaurant owner was present and advised that the hours. Monday through Friday hours of operation will be 11am 9pm, Saturday's hours will be 11:30 to 9pm and Sunday's hours will be 12 8pm. Planning for 99 in seating capacity.

Mr. Hayes questioned ownership of the restaurant, she is leasing the building and will run the restaurant. She submitted the application to the code enforcement office, she has applied for the liquor license. Mr. Sailer inquired about the number of outdoor seating and where it would be located. The patio will hold approximately 6 tables in the front of the building. The patio has a roof and a fence and no extension to the current size of the patio. Mr. Hayes asked about the parking lot capacity. While there is seating for 99, she believes that patrons will come and go at different times, throughout the hours of operations. Mr. Hayes request clarification from the code enforcement officer about regulations/restrictions of the parking lot. Mr. Schieber referenced the concrete area of the property that does have parking stripes and impression of the previous use of the building relative to some food service, retail services this business complies with the amount of parking that will be required. The fencing will align and the existing pavement along with the concrete should resolve the parking concern. As the patio does have a covered roof, Bebak believes sufficient to block out some noise for the surrounding neighbors. Confirmed that a special liquor license will be obtained for the outside service. Mr. Hayes inquired about having a walk up ice cream section. Ms. Barrett advised that is not part of this restaurant. Separate from the restaurant. Code Enforcement Officer Schieber advised different operator, very small space located in the rear of the building, separate from the restaurant. Mr. Hayes still expressed concerns over the parking.

Questions from the public:

Joseph Steffan inquired about the operation of the ice cream service hours. Asked about the outside patio and no live music. Music will just be via a speaker in the restaurant and closed by 9pm. It was noted that a request for live music does require a variance approval from the Zoning Board.

Mr. Steffan asked about the bar area and including the 99 people with those numbers. Code Enforcement Officer Scheiber advised that the spaces inside are completely separated by walls for this establishment and for a future ice cream establishment. Mr. Scheiber at the visit felt that with the square footage, standing room there is approximately capacity for 93 individuals and to not exceed 99 people per fire code.

Mr. Steffan still expressed concerns about leftover food and ice cream in the dumpster which he feels is too close to his property for the smell. Discussions were held as to where the dumpster is located. Mr. Sherman advised that commented that it has been at this spot and with their removal service has not been issue. Mr. Steffan requested that the Applicant relocate the dumpster. Chairperson Bebak reiterated that they are here for rezoning not specifically for site planning and dumpster location. She



William Hite – Architect representing Mr. Vona advised that the windows will not have egress access due to their existing size. The egress requirements are two ways out and they plan to utilize the doors on both east and west side of the building as well as having the building sprinkled. Mr. Hayes asked if the situation was that the water impendent, specifically flooding. Mr. Hayes referenced several national stories indicating that people could not get out of lower level – basement apartments due to flooding in the building. Mr. Vona reiterated that this is garden level and he has other properties also at garden level and understands concerns. However, he plans to dig out the basement and install drain tiles and a sump pump to ensure and plant to make the building water tight prior to the construction. McCabe asked about state codes that have to be met during the construction phase, which Mr. Scheiber confirmed by provided a sprinkler system and also on the lower levels having two ways out most likely satisfies the requirements for the egress and ingress.

Questions from the public:

Garrett Brady – 58 Ansley Court– thanked Mr. Vona for improving the area. Advised that he was speaking for several neighbors in the Ansley Court neighborhood. The neighbors have several concerns:

Snow storms - what is the plan for snow removal and where to place the snow. Mr. Brady indicated that there is currently a dumpster on the property and given the additional green space, is there adequate room. Mr. Vona confirmed the dumpster location and indicates the snow removal will be managed with each event and will remain on the property and not the street. Mr. Vona referenced the map and indicated the area where the blacktop to the north will be removed in its entirety and replaced with grass and some shrubbery. Then the southwest corner will also have grass and the snow will be placed there. Dumpster will be moved forward and moved the snow around the dumpster.

Screening of property lot to the south side toward the neighbors. Right now, Mr. Vona explained there is an existing fence and could be replaced or refurbished. Long term plan to replace the fence.

ADA access - the stairs do go down on both ends of the building and referenced the west side of the building, there is not a lot of room between the building the property next door. Mr. Hite spoke to accessibility. This is an improvement to the property because as business there would be higher expectations. As an apartment building of this size, the building code requirement from the state and federal is accessibility is not required as this is a private business not public building. The apartment just needs to be a little larger than the standard. There are no requirements for having a ramp or to avoid stairs or steps. Changing from commercial property to residential falls into residential and the stairs are compliant with code.

Mr. Brady reiterated that this side of the building is tight and feel that you would be walking right into neighbors' garage, not enough room.

Building Signs- Mr. Vona replied that there will be no signs on the building or on the road.

Dumpster – any screening/covering – no and does plans to keep existing service.

Tenants – Mr. Vona plans to advertise higher end tenants and at market rate.

Vehicle Traffic – concerns about pulling in and out of the parking lot there is a middle school close by and there are pedestrians walking.

Lot size – Mr. Brady does have concerns the variance as substantial. Reference 8 units with 2-3 people in each unit, with vehicles. Mr. Hite advised the town code requires two parking spaces per unit and additional spots for visitors. Parking lot up to 19 spots but not shown on the map. Lot size will be addressed at Zoning Board meeting. Per Town Code, it is Mr. McCabe’s understanding that parking is sufficient. Mr. Scheiber confirmed yes – two per apartment plus some additional spots for visits. Mr. Hayes would like to be sure since earlier it was stated that some space will be removed. Mr. Vona confirmed on the map showing what spaces will be available pursuant to the town code. Mr. Vona said green space to make more residential. Mr. Hayes we can appreciate that, but concerned about removal of parking space and plumbing issue work to be done and checklist (grading plan to remain), will this board need some drawing to see the proposed changes. Mr. Vona does not believe so as the same grade black top to grass. Referenced the map and indicated that the parking space to building edge and the parking space will be changed to angles. Mr. McCabe wondering if building inspector will monitor and watch and was confirmed yes and can confer with engineering department during the construction phase.

Mr. Brady concluded that they want their concerns heard and they also want the best for the residents of this area.

Mr. Sherman had one more question about pets in the building. As of right now, no pets per Mr. Vona.

Motion by McCabe, seconded by Hayes to close the public hearing.

Ayes: McCabe, Sherman, Frick, Hayes, Holmes      Noes: None      Motion Carried

Motion by McCabe, seconded by Frick to approve classification of zoning from C1 to C1s and from business office to multiple family dwellings with the understanding that the number of dwelling will be confirmed and approved the Zoning Board of Appeals.

Ayes: McCabe, Sherman, Frick, Hayes, Holmes      Noes: None      Motion Carried

**ADJOURNMENT**

Motion made by Frick, seconded by McCabe to close the public hearing at 7:07 pm.

Ayes: McCabe, Sherman, Frick, Hayes, Holmes      Noes: None      Motion Carried

Kate Newton

Town Clerk/Planning Board Secretary