## Town of Elmira New York ZONING BOARD OF APPEALS

## Meeting March 26, 2024 7:00 pm EDT

PRESENT:	Members:	Joe Sullivan Scot Gerould Peter Peterson Chris Longwell Jennifer Moffe
ALSO PRESENT:		Eric Crandall, Code Enforcement Officer Scott Moore, Town Attorney Christine Duvall, applicant

Chairman Sullivan opens the meeting at 7:00 PM and asks the clerk to call the roll. All members are present. (Member Gerould arrives at 7:04 PM)

Chairman Sullivan then asks the applicant, Christine Duvall, to speak on behalf of her application. She states that she wants to operate a longarm quilting business. She also provides the board with a written estimate and scope of work from contractor Justin Reed to convert the building into a single-family home. The work necessary to bring the building into compliance would exceed \$175,000.

Chairman Sullivan opens the public hearing and confirms that the applicant has returned the affidavit stating that notices have been mailed to residents within 200-feet of the parcel and that the notice was published in the Star-Gazette. The Chairman then asks if anyone is here to speak in favor of the application. Patricia Buttolph of 104 Morningside Dr, Sue Larson of 1721 Crestwood Rd, and Abigail Duvall of 95 Carrollton Ave all spoke positively of the proposed use and welcome the addition to the Town.

Chairman Sullivan asks for those who oppose the application to speak and no one chooses to do so. Chairman Sullivan then closes the public hearing and reopens the regular meeting. He asks if there are any additions or corrections to the meeting minutes of February 27, 2024 and hearing none asks for a motion to approve.

MOTION by Chris Longwell to approve the minutes of the February 27, 2024 ZBA meeting. Second by Scot Gerould Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan Nays: none

## AGENDA ITEM – <u>101-A Morningside Dr. Use Variance Application</u>

Chairman Sullivan moves into discussion and asks the members if they have anything further that they would like to discuss. There is a consensus among the board that they have received enough information to proceed. A State Environmental Quality Review (SEQR) is required for all use variance applications and the Chairman reads through the eleven questions on part 2 of the short-form SEQR. The Board has acknowledged that there will be no environmental impact with respects to this application.

**MOTION** by Pete Peterson to make a Negative Declaration for part two the State Environmental Quality Review (SEQR) for 101-A Morningside Dr.

> Second by Scot Gerould *Ayes:* Gerould, Peterson, Longwell, Moffe and Sullivan *Nays*: none

MOTION by Scot Gerould to accept the State Environmental Quality Review (SEQR) for 101-A Morningside Dr. Second by Chris Longwell *Ayes:* Gerould, Peterson, Longwell, Moffe and Sullivan *Nays:* none

Chairman Sullivan then reiterates to the board that Use Variances are subject to the criteria established by New York State and incorporated by the Town of Elmira in section 217-107 of the Code of the Town of Elmira. He then reads the four requirements to demonstrate an unnecessary hardship.

- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial and demonstrated by competent financial evidence;
- (2) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- (3) The requested use variance, if granted will not alter the essential character of the neighborhood; and
- (4) The alleged hardship is not self-created.

The Board concurs that the financial document provided by the applicant is sufficient evidence that the applicant cannot realize a reasonable return. The alleged hardship is unique and does not apply to a substantial portion of the neighborhood, will not alter the essential character of the neighborhood, and the hardship was not self-created. The Chairman then asks for a motion to either approve or deny the use variance.

> MOTION by Scot Gerould to grant a Use Variance for a Longarm Quilting establishment at 101-A Morningside Dr. Second by Chris Longwell *Ayes:* Gerould, Peterson, Longwell, Moffe and Sullivan *Nays:* none

Chairman Sullivan asks if there is any new business to be discussed. Mr. Crandall notes that an Area Variance application has been received and, due to the applicant's availability, that application is scheduled to be heard on May 28, 2024. The Chairman then asks if there is any old business to discuss and hearing none asks for a motion to adjourn.

MOTION by Pete Peterson to adjourn the meeting. Second by Chris Longwell *Ayes:* Gerould, Peterson, Longwell, Moffe and Sullivan *Nays:* none

Meeting adjourned at 7:20 pm EST.