



City of Binghamton Planning Department

SUMMARY OF MINUTES	
CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
MEETING DATE: February 13, 2024	LOCATION: City Council Chambers, City Hall
CALLED TO ORDER: 5:15PM	RECORDER OF MINUTES: Shalin Patel

ROLL CALL		
ZONING BOARD OF APPEALS MEMBERS:	PRESENT	ABSENT
J. Kelly Donovan (chair)	X	
Susan Bucci	X	
John Matzo	X	
Ernest Landers	X	
Marina Resciniti	X	
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Greg Buell	Zoning Officer, Planning Department	
Elisabeth Rossow	Corporation Counsel	
Robert Heary	Corporation Counsel	
Nicholas S. Cortese	Outside Counsel, Coughlin and Gerhart	

APPROVAL OF MINUTES		
MOTION to approve the amended December 12, 2022 meeting minutes as written.		
FIRST: Matzo	SECOND: Resciniti	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 10 Johnson Ave	CASE NUMBER: ZBA-2023-180
APPLICATION FOR: Appeal of Zoning Officer Determination for a group of 3 unrelated individuals that do not meet the criteria for a family or the functional and factual equivalent of a family in the R-1 Residential Single Unit Dwelling District	
REPRESENTATIVE(S): Mark Liscia (Homeowner)	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ There are concerns about 100s of other students living in R1 and R2 Zoning Districts and there are no zoning board signs in front of their houses (Liscia) – not one of the other owners has appeared in front of the Zoning Board except us ▪ We are asking for what the city is doing to enforce violations given to other landlords and if there will be equal enforcement for everyone throughout the city ▪ There have been lots of money spent from our side and hours spent on appealing for 3 unrelated individuals to be considered a family on the basis of a bad law that is hard to enforce (Liscia). ▪ It would be better all involved (city officials, landlords, tenants) if the law was re-written to say “no more than 2 unrelated people can be a functional family.” “2 people can already live together if they are unrelated, I do not think the city of Binghamton is trying to outlaw roommates living together.” 	

- Out of 8 criteria listed in the Chapter 410-5 in Zoning Code, our tenants’ meet 4-6 of these requirements. How many requirements do the tenants have to meet to qualify as a family?
- All tenants of 10 Johnson Ave and 18 Murray St are moving out at the end of May, some were moving out at end of their leases anyway, while others wanted to stay in current living arrangements, but were unsure of the outcome of this meeting. Tenants were made upset and feel unwelcome in their neighborhood from the viewpoints displayed in the previous Zoning Board meeting by what their neighbors had to say.
- **Chair (Donovan) asked Planning staff**, what is the genesis of chapter 410-5, is that pre-existing with timing of it or is that developed by City Council (referring to the definition of a family)?
 - **Staff (Martinez) replied**, family has been defined in the code for a long time, this section of the code that says all dwelling units in the R districts have to be occupied by a family or the functional equivalent of a family. Since that rule is in place, the code has to define what a family is. The current definition was an update that took place in 2019 and the purpose of it was to have more objective measures of what constitutes a family. Before that amendment it was subjective, the Zoning Officer would have to go in the unit and make a judgement on the tenants’ lifestyle and determine whether or not he/she felt they met the definition of a family. It was updated to be more black and white things, requirements that are measurable such as has the tenants live together for more than a year, do they have local employment, etc.
- **Commissioner (Matzo) commented**, do the tenants share the gas and electric bill? If the tenants are sharing the utility bill, are all 3 tenant names registered on the bill?
- **Commissioner (Resciniti) asked** if there were locks to the bedrooms in the building. (For requirement number 1)
 - **Mark Liscia (from the audience) replied** with no to both abovementioned questions.

MOTION to open public meeting

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):

PUBLIC COMMENT:

- **Russell Mains (Attorney representing the applicant) spoke in favor of the project.** Mr. Mains had following to say about the project: the statue/ordinances are vague about the number of people, makes it difficult for residents to comply. Tenants that are subject of this application will be out in a couple of months. Some of the other tenants had already signed leases to be tenants at these houses before the law was passed, so there are some issues that needs to be resolved with that.
- **Russell Mains spoke again on behalf of Mark Liscia.** Mr. Liscia said he decided not to provide driver license and registration information because the tenants are moving out after their leases end and are not renewing it. It was indicated somewhere in the paperwork about the amount of people living in these houses, it is not being masked as something else.
- **Margo Bordeau (resident at 50 Johnson Ave) spoke in opposition of the project.** Ms. Bordeau had following to say: she has never read anything documenting the need for housing for unrelated individuals that this exception could provide housing for. But there have been documentation on needing additional rentals for families in the community. The property in question has been owned by the landlord for quite some time, it is one of the four worst properties on Johnson Ave. It is a beautiful neighborhood, we are not opposed to students, but we want to keep the neighborhood intact. And if the landlord took care of the property, it might be a different scenario, but if he does not want to take care of his properties, the council should not bend for his request.
- **9 letters received in opposition.**

MOTION to close public meeting

FIRST: Donovan	SECOND: Bucci	VOTE: Carried (5-0-0)
-----------------------	----------------------	------------------------------

AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):
VOTING		
<p>DELIBERATION:</p> <ul style="list-style-type: none"> ▪ Group A: Unit on the right side (All of the requirement descriptions from the applicant(s) can be found in the previous meeting minutes): <ol style="list-style-type: none"> 1. Share of whole unit – no rooming house (no locks on bedrooms per owner) 2. Stability of house – there are no minor children, 3. Proof of shared expenses for food, rent, ownership, and utilities - all the costs as mentioned above is shared by all the tenants of the unit. There was no strong evidence one way or the other. 4. Addresses for votes, driver’s license registration – that is not presented/available at the moment (from/by) the applicant. This is important because it is telling whether the person is a student living in Binghamton for 9 months or if they are a resident. 5. Common ownership of furniture/appliances – to say that tenants split the coffee pot or share expense of toaster oven is a lot different than common ownership furniture and appliance. There needs to be a clear distinction made that it is a furnished unit, each room is furnished. Furniture and appliances are different than few odd pieces of extra appliances. That requirement is not met. 6. Enrollment of children in schools – not applicable to the tenants. 7. Employment of household within 100 miles of city of Binghamton – all 3 residents have local jobs. 8. Proof of household living together for a year or more – all 3 have been living together for 4 years together and 2 of the 3 have been living together for 5 years total (2 of them have lived together for 5 years, one of which is graduating in a week, and another will be graduating next year in June, the third one graduated last year). As it was presented by the applicant at previous meeting. 9. Any other factor reasonably related to whether or not the group or person to functional equivalent of a family – no additional information was provided that would proof that the group of students would constitute a functional equivalent of a family. ▪ Group B: Unit on the left side – 3 students who have lived together for going on to 4th year (2nd year at this particular unit). (All of the requirement descriptions from the applicant(s) can be found in the previous meeting minutes). <ol style="list-style-type: none"> 1. Occupant do share the entire dwelling unit. 2. Stability of house – there are no minor children in the unit. 3. Proof of shared expenses for food, rent, ownership, and utilities - a lot of the costs regarding food and rent would be shared, proof can be provided for it. 4. There is no proof of permanent addresses available at this moment. It is important as previously mentioned, because it helps determine the distinction between a student and a resident. 5. Tenants do share a common ownership of furniture and appliances. There needs to be a clear distinction made that it is a furnished unit, each room is furnished. Common ownership furniture and appliances are a lot different than few odd pieces of extra appliances. 6. Enrollment of children in schools – not applicable to the tenants because there are no minor children living in the unit. 		

<p>7. Employment in the city of Binghamton – only 1 of 3 tenants works locally in the city of Binghamton, while rest are students.</p> <p>8. Proof of household living together for a year or more – all 3 tenants have been living together for 4 years</p> <p>9. No other information is available at the moment that would proof that the group of students would constitute a functional equivalent of a family.</p>		
<p>MOTION to affirm the Zoning Officer’s determination for Unit A (right side) of 10 Johnson Avenue do not satisfy the criteria for a functional and factual equivalent of a family pursuant to § 410-5 (Family) A and B of the City of Binghamton Zoning Code.</p>		
FIRST: Donovan	SECOND: Bucci	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):
<p>MOTION to affirm the Zoning Officer’s determination for Unit B (left side) of 10 Johnson Avenue do not satisfy the criteria for a functional and factual equivalent of a family pursuant to § 410-5 (Family) A and B of the City of Binghamton Zoning Code.</p>		
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):

PUBLIC HEARINGS & FINAL DELIBERATIONS		
ADDRESS: 18 Murray St	CASE NUMBER: ZBA-2023-190	
<p>APPLICATION FOR: Appeal of Zoning Officer Determination for a group of 3 unrelated individuals that do not meet the criteria for a family or the functional and factual equivalent of a family in the R-1 Residential Single Unit Dwelling District</p>		
<p>REPRESENTATIVE(S): Mark Liscia (Homeowner) chose to remain seated in the audience</p>		
<p>DISCUSSION POINTS:</p> <ul style="list-style-type: none"> ▪ Chair (Donovan) commented, as previously stated, the board has no interest in displacing anyone from their rentals before the end of their rental term. 		
<p>MOTION to open public meeting</p>		
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):
<p>PUBLIC COMMENT:</p> <ul style="list-style-type: none"> ▪ Elizabeth Flynn (resident at 20 Murray St) spoke in opposition of the project. Ms. Flynn had following to say about the project: my complaint are not the students, our neighbors are great, super personable, quiet, polite, but it is the property in question that is the problem. That part of west side is a beautiful neighborhood and as 10 Johnson Ave is, it is one of the worst properties on the block. It is not maintained well and when they do try to maintain it, it is the bare minimum. This summer the siding was painted, but it needs to be completely ripped off because it is completely rodded and where the house butts up to it, it is seen from my house, there are creatures going in and out of it. No issues with students, just the upkeep of the property. 		
<p>MOTION to close public meeting</p>		
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):
VOTING		

DELIBERATION:

- **Unit A (right side) of 18 Murray St:** (All of the requirement descriptions from the applicant(s) can be found in the previous meeting minutes):
 1. Share of whole unit – no rooming house (no locks on bedrooms per owner)
 2. Stability of house – there are no minor children, sharing of all the costs as mentioned above is shared by all the tenants of the unit. There was no strong evidence one way or the other.
 3. Proof of shared expenses for food, rent, ownership, and utilities – there seems to some proof and some testimony to that effect.
 4. Addresses for votes, driver’s license registration – that is not presented/available at the moment (from/by) the applicant. There is no proof on that.
 5. Common ownership of furniture/appliances – this is a furnished unit, there may be some sharing of some appliances and such.
 6. Enrollment of children in schools – not applicable to the tenants.
 7. Employment of household within 100 miles of city of Binghamton – 1 or 2 whom are employed within 100 miles.
 8. Proof of household living together for a year or more – all 3 tenants have been living together for 3 years.
 9. Any other factor reasonably related to whether or not the group or person to functional equivalent of a family – no additional information was provided that would proof that the group of students would constitute a functional equivalent of a family.

- **Unit B (left side, 12 Vincent St):**
 1. Share of whole unit – no rooming house (no locks on bedrooms per owner)
 2. Stability of house – there are no minor children
 3. Proof of shared expenses for food, rent, ownership, and utilities - all the costs as is shared by all the tenants of the unit. There was no strong evidence one way or the other that this was not the case.
 4. Addresses for votes, driver’s license registration – that is not presented/available at the moment (from/by) the applicant. No evidence was provided.
 5. Common ownership of furniture/appliances – this is a furnished unit, there may be some sharing of some appliances and such.
 6. Enrollment of children in schools – not applicable to the tenants.
 7. Employment of household within 100 miles of city of Binghamton – no information available.
 8. Proof of household living together for a year or more – all 3 tenants have been living together for 1 year, this is their first year.
 9. Any other factor reasonably related to whether or not the group or person to functional equivalent of a family – no additional information was provided that would proof that the group of students would constitute a functional equivalent of a family.

MOTION to affirm the Zoning Officer’s determination that the residents at Unit A (right side) of 18 Murray Street do not satisfy the criteria for a functional and factual equivalent of a family pursuant to § 410-5 (Family) A and B of the City of Binghamton Zoning Code.

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):

MOTION to affirm the Zoning Officer’s determination that the residents at Unit B (left side) of 18 Murray Street do not satisfy the criteria for a functional and factual equivalent of a family pursuant to § 410-5 (Family) A and B of the City of Binghamton Zoning Code.

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
-----------------------	----------------------	------------------------------

AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):
---	----------------	-----------------------

ADJOURNMENT		
MOTION to adjourn	TIME: 5:59 PM	
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (5-0-0)
AYE(S): Bucci, Donovan, Matzo, Resciniti, Landers	NAY(S):	ABSTENTION(S):