

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of September 1, 2016**

PRESENT:

Mr. Anginoli
Mr. Keegan (absent)
Mr. Casscles
Mr. Vasti (absent)
Mr. Porath (absent)
Mr. Lynch

ALSO PRESENT:

Dave MacCartney, Attorney
William Sheehan, Building Inspector

Chairman Wright

Chairman Wright: Good evening, welcome to the Stony Point Zoning Board of Appeals. I call this meeting of September 1, 2016, to order. Please rise for the Pledge of Allegiance.

We have a couple of items on the agenda, but the first one really is the request for a Public Hearing for David T. and Sandi Schassler.

Request of David T. and Sandi Schassler – Application #16-03

A variance from the requirements of Chapter 215, Article V, Section 15A-h.2-2 - Less than required lot area, required 25,000 square feet provided, 22,952 square feet and Chapter 215, Article V, Section 15A-h.2 – Less than required front yard/setback; required 35 feet, provided 13.7 feet, located at 8 Schassler Place, Stony Point, New York.

Section: 20.07 Block: 2 Lot: 68.1 Zone: RR

*****MOTION:** Mr. Anginoli made a motion to open the Public Hearing; seconded by Mr. Lynch. Hearing all in favor; the motion was carried.

Chairman Wright: Is a representative for the applicant here; please come up and identify yourself.

Dwight Joyce – Attorney for David and Sandi Schassler

Mr. Joyce: As I mentioned during the – when we submitted the application, the Schasslers are looking to receive two (2) area variances on an existing structure. There is no application for a Building Permit being filed, there is no alterations to the building, there is no excavation or remodeling outside or inside of the structure at all. They are looking to receive a Certificate of Occupancy and permission from the Planning Board to have it conform with the appropriate law in the Town regarding a two-family structure.

In an area variance one of the things that we look at is whether the change that it is going to make is going to be undesirable – there will literally be no change visible to anybody inside or outside of the structure. The house now sits right off of a private road; Schassler Place. There will be no modifications to any lot lines. The lot line to the south, where we have a small variance is needed; that lot line has existed. It has not changed. It's been in existence since the lot was originally formed. The lot to the west, the lot line, which is a more substantial variance cause there is only 13 and we are looking for a 21 foot variance in that area – that is existing

also and most of that is being used up by the street, which is Schassler Place and that is used by everybody along that road. So as to any of the undesirable change there will be no change to the neighborhood. It's not going to be a change use, it's not going to be a change in occupancy, it's not going to be a change in regularity use, parking is not going to change, there is no excavation, there is no receding; there is nothing being done to the interior or the exterior of the house. So there is not going to be any change in the structure of the house.

Is there alternatives to the variance and there really isn't. We are not looking to change the use of the property; we are only looking to make it conform with the proper Certificate of Occupancy for the current use which is has been a two-family house going back...I don't think anybody knows how far it's gone back. Originally when I learned of the house it was this applicant's great-grandmother living downstairs and his father was living upstairs. So it's been in use as this for decades; if not scores of years. One of the applicant issues is going to be whether or not there is a substantial change – whether it is two-family compared to the zoning. It is an existing structure which is surrounded by an existing structure. There really can be no more development in that or that lot. I don't think the street could handle it. It's only a small private road. Nobody is looking to expand it on that property. I know we have some neighbors here who were noticed for it and I guess they will have input on what it is, but it has been used this way for atleast, as far as I know, atleast the last 40 years and it was used prior to that also.

The impact on the environment – dust, noise, odor and other emergency services; again since we are not changing the structure, the use, the lay-out or anything else there is no change in that. It's going to be whatever been existing and whatever the people in the neighborhood have been used to as well will be continued. One of the issues is always – whether it was self-created. It is not a self-created issue. This structure has been here before there was Code in Stony Point. The private road was put in, the other houses in the area were developed. I know there was a subdivision, I believe in 1992 or 1995, but it did not impact upon the lot lines which are in question today which is the one to the west and to the south of the property.

Is there any other conditions or anything else which would impact upon the house or the neighborhood and the answer is “no”. Again, we are not changing anything. There is literally no construction which is anticipated and the people who are familiar with the area know it is a very quiet street. It's going to remain that way. So there really is no change in the impact upon the neighborhood, the people, or even occupants of the house.

Does anyone have any questions?

Mr. Casscles: Dwight, you just mentioned that back in '95 or so...

Mr. Joyce: I'm sorry I couldn't hear you.

Mr. Casscles: you mentioned back in 1995 or so it was a subdivision...

Mr. Joyce: 1992 or 95; yes.

Mr. Casscles: and according to the minutes of the Planning Board, Mr. Zigler himself stated that it was approached as a single-family home back then because if it had been approached as a two-family home back then they would of never of gotten their variance because you were shy of the 3,000 feet. But, seeing as they presented it as a single-family you only needed 15,000 feet. That is why the variance went through the first time. So back then it was a single-family and now it's going to be a two-family?

Mr. Joyce: I didn't represent them in '95. I wasn't present at the Board; I don't know what was said, but all I can tell you is I know back in the '80's it was used as a two-family house with presumably...

Mr. Casscles: It may have been used as a two-family, but it wasn't legal back then either.

Mr. Joyce: I don't know...well my understanding is that structure pre-exists Code. So whatever the structure and the use was would pre-exist whatever the Code was in Stony Point at the time; whether it was compliant with the law and had a Certificate of Occupancy for two-family I'm suspecting not because there's probably not a Certificate of Occupancy for the existing structure at all. I know Mr. Zigler is here and maybe he could address that issue. I asked him to come here cause I know there was issues regarding it in the Planning Board minutes for this original application, so maybe that is a question we can address to him because I wasn't present then on how the map was...I don't know if it was an oversight, I don't know if it was a typo, I don't know if it was a mistake when it was done and I don't know if it was just something they didn't look at or weren't concerned about at the time and they were just addressing the other lot, but I apologize I wasn't here doing this in '95 for them.

Mr. Casscles: Mr. Zigler can you elaborate on that.

Mr. Zigler: Okay.

Chairman Wright: Does anyone have any more questions for Mr. Joyce?

(no response)

Chairman Wright: So I just want to make sure on this...so they haven't done anything new; they don't plan to do anything to the structure.

Mr. Joyce: My understanding is there is no Building Permit been requested. I understand from the owners of the house, both David and Sandi, that they have no intention of doing it. The people who live downstairs are actually Sandi Schassler, David Schassler's wife's parents, and the upstairs I think has been occupied by a tenant until recently when we found out that we need a variance to make it conforming with the current Code.

Chairman Wright: And your understanding is that it's been essentially a two-family for the last 40 years.

Mr. Joyce: As long as I've known the house and I've known the Schasslers probably too long, it's thinking somewhere probably...I'm familiar with the house and probably somewhere around the early to mid 70's...'77, maybe '78 and that's the first time I became familiar with the great-grandmother who used to live downstairs.

(woman raising her hand to speak)

Chairman Wright: So ma'am what we normally do here is that he'll just give...he will have his point and then what we will do is open it up to the public so they can provide their input. So thank you.

Mr. Joyce: I believe some of the people that were noticed were Schasslers and they live on the street.

Chairman Wright: During that time has it been two-family, but has it been essentially two families related to the Schasslers or has it been somewhat of a commercial...

Mr. Joyce: I think it's always been a mix because I know at one point I think the great-grandmother lived downstairs and somebody else lived upstairs. So I think it's been a change or a turn-over over that period of time. I don't even know when the great-grandmother passed away, but I know it was used by somebody throughout that entire period and it wasn't always a Schassler upstairs.

Chairman Wright: Is there a garage in front of the property?

Mr. Joyce: No, there is no garage...I think the building was originally at some point a barn. I think it was a barn that was converted and then converted again.

Chairman Wright: I was just thinking what the Planning Board...I was wondering if you make it...if it becomes a two-family does that allow for a larger placement of garage if later on the owners decide to build a garage on there.

Mr. Joyce: I understand that you can put conditions on the approval that no further development and no other changes if you are worried about some expansion into the parking area whether the blacktop is now a garage maybe, but quite honestly thinking about it, if you did that that would block the front doors to the house because the garage or the parking areas and there is no way to put it on the other side unless you walk all the way around to get in the door.

I think it would be impractical, but that doesn't mean at some point in the future somebody may not try it. That's what I am saying.

Chairman Wright: Mr. MacCartney maybe you can help me on this one because this was referred to us from the Planning Board and so do I understand it correctly that we are not the ones who make it a two-family we allow...we would provide the variances and then the Planning Board would actually make it a two-family. Is that correct?

Mr. MacCartney: That's right. My understanding is that the applicant in seeking to get the conditional use permit required...let me back up a little – so in the R1 Zoning District a single-family use is permitted as of right; two-family use is permitted by issuance of a conditional use permit by the Planning Board. So the Planning Board is in charge of whether to grant the conditional use permit or not and ordinarily it wouldn't involve this Board in any way except for the fact that the lot for two-family use doesn't quite conform to the bulk requirements necessary. Lot area is about 2,000 sq. feet short, instead of 25,000 sq. feet it has about just under 23,000 so they need that. That's an existing condition in the lot that they can't change so they need a variance in order for the Planning Board to continue even considering this conditional use permit and because the front of the property is short of the front yard setback and now its technically a change in use now they need a variance to sort of legalize that condition that's been in existence forever. The building been there for as long as it's been there; we are not changing it, but because of the change of use from a single to a two now it's no longer pre-existing non-conforming and entitled to that benefit now they need a variance to allow it to be there if they are going to change to a two-family. If they are going to keep it as a single-family then the structure remains where it is, but they don't need a variance because they are not changing or expanding anything. That's my understanding of where we are here. So they are here...to answer your question more directly, they are here only for this Board to consider the two (2) area variance requests for this structure on this property – the 2,000 and change square feet of lot area and then the front yard setback and that's it. And then were the Board be inclined to grant that variance either with or without conditions it would do so and then refer the matter back to the Planning Board for further consideration of the conditional use permit. Now with the variance, the bulk issues would now no longer be a blockade to them continuing to further consider that and then it is up to them whether to grant the permit or not, but atleast this Board will have granted the bulk variances required; if it's so inclined to do so or it can deny it or it can put conditions on it such as Mr. Joyce suggested – no further development or no expansion. That it could be a condition that could be placed and its only in connection with this application for a conditional use permit; not some future application. You can put language to that effect in it as well. If you see fit or you can deny it.

Chairman Wright: And if there are no...so if its 25,000 sq. feet and it had front yard setbacks we probably then wouldn't be here?

Mr. MacCartney: Correct. They would never come before this Board on this application. If it was 25,000 sq. feet and that structure was far enough back that it met the front yard setback requirements they would not be here.

Chairman Wright: So Mr. Joyce, the other question I have is that if others in Schassler Drive didn't have 25,000 sq. feet and they wanted to all apply for a two-family use what would be unique about this where we wouldn't have a precedent where everybody else on Schassler Place could then ask for a two-family.

Mr. Joyce: Remember we are not asking for a change of use from this Board, we are only asking for old area variances. So we are not asking for a change of use. I don't know what the dimensions and lot sizes of the adjoining lots are, so I can't address on whether or not the variances would be substantial, whether they have to change their house or do anything else to their property. If I was familiar with the other houses, I would address them, I just don't know.

Chairman Wright: Just out of curiosity I'm just trying to...looking for some uniqueness here. Let's assume that everyone had the same issue on Schassler Place – they all didn't have the front setback, they are all less than 25,000 feet and we grant this variance here what would stop every other person from Schassler Place from coming up to us and then us automatically kind of having to grant them if we were to grant this to...

Mr. Joyce: I don't think it just pertains to Schassler Place. Everybody I guess in the R1 could actually come if they didn't meet the bulk requirements and ask for a modification of it, but remember the approval is done through the Planning Board so they would consider all those appropriate planning issues for any such change. As I was sitting here while you were talking, I was thinking of the lot across the street which I believe is owned by William Nytko and he sat off the property probably 100 feet and I think the lot next door just to the south is probably about 20 something feet off the road so I believe every lot is going to be approached differently. The size of the structures are different too. The overall use which is continued I guess if it wasn't used for this then there might be an issue, but I assume that each successive place would put an additional burden on the land, but I know that when the subdivision was done in '95 they actually increased the water main as well as put in fire hydrants along that street which I don't think existed before so there was improvements made to the entire place which benefited the entire community. So this is again not changing any of the character of the neighborhood, not changing the character of the house or anything it's just changing or seeking a conditional use permit from the Planning Board to allow what's been used as a certain property to be continued to be used that way.

Mr. Casscles: It might have been used as that, but it was put to the Town back in '95 as a single-family. Regardless of whether there was 10 families living in there or not, back then it was listed as a single-family.

Mr. Joyce: It was listed on what the tax rolls?

Mr. Casscles: On that variance that we gave them back in '95 it was a single family. It was short 3,000 feet back then if they wanted to go for a two-family.

Mr. Joyce: Again, I wish I could explain that to you Mr. Casscles...

Mr. Casscles: It makes no difference if you were here or not they were short back then; they are short now. So back then to get their variance for the other flag lot that we gave them they listed that as a single-family now all of a sudden they got their variance, they got their flag lot, they got their other house and now it becomes a two-family.

Mr. Joyce: The substantial variances that we need have not changed from 1990 to 2016...

Mr. Casscles: It did because back then it was considered a single-family and you didn't need no variances on that lot.

Mr. Joyce: For the variance that, and again I wasn't there so I'm just talking off of what you are saying, but if they received a variance back in 1995 the only thing that would of impacted this lot would be the bulk – the side yard and the two (2) side yard variances would not have changed because the house has not moved and it has not been enlarged. The bulk is only a 2,000 sq. foot or less then...I think its listed as a 10% difference in what the bulk area is required. I don't know how they addressed it to the Board back then, I think the variance they were seeking was for the new house that went in the back on the flag lot. So I don't know how they addressed the front lot, but I don't think that house in the back is even owned by a Schassler; I think somebody else bought it and lives there.

Mr. Casscles: But, it was addressed as a single-family.

Mr. Joyce: Okay, well again I don't know I wasn't there, but I'm saying that even if that was the case this lot would of only needed the 2,000 sq. foot area variance from the Board at the time and that's it...

Mr. Casscles: But, you still need it.

Mr. Joyce: Yes, we still need it. But, the substantial variance I need is actually against the street and against the south border because those are the larger variances that I'm actually seeking and they have been existing since long before 1995.

Mr. Casscles: The 1995 was for a single-family for the lot front. We might of granted it back then, but you still need a bulk.

Mr. Joyce: You need a bulk on this lot – that's correct.

Chairman Wright: I have a question for Mr. Sheehan. Can you just identify yourself?

William Sheehan – Building Inspector, Town of Stony Point

Chairman Wright: On the setbacks – what is your opinion on any impact on the setbacks on that particular piece of property just by the change going from a one-family to any, what would be your concerns about that.

Mr. Sheehan: Basically the reason he is here obviously for the bulkness. As far as the front setback, the only reason is because of the change of use. I really don't see the setback as an issue; it is an existing house so...the area variance is more of an issue – I wouldn't say it is an issue, but from '92 to '95 the setback – you are not going to change the house; it is what it is. I think even if you had 25,000 square foot and it went to the Planning Board to make it a two-family we discussed about sending it to the Zoning Board for that variance, front yard variance which was existing, but it's kind of since the applicant had to come here anyway we wanted just to suspend this I think.

Chairman Wright: The only thing I think about is if there is two (2) families...let's say you have a two-family and people can all of a sudden accumulate a lot of cars and sometimes all the cars don't work, would there be an opportunity for us to establish a number of vehicles that would be associated with these two (2) families or...

Mr. Sheehan: Well the minimum requirements is four (4) spots which is shown on the map...can you put six (6) in there; sure, but then again if you wanted to put six (6) parking spots in a single-family house you can too. I think in this situation you are kind of limited because of the width of the lot as far as whether you wanted to put something in the back of the house parking wise, there's really not much area to expand.

Chairman Wright: Mr. Joyce, I think that is it for now. If you would like to stick around...

Mr. Joyce: Oh, I'm not going anywhere. Thank you.

Chairman Wright: At this point I will invite anybody from the public who wants to speak – just raise your hand and I will ask you to come up and identify yourself and I will swear you in.

Please identify yourself:

Denise Schassler-Owens
9 Schassler Place
Stony Point, New York

Chairman Wright: “Do you swear the testimony you are about to give is truthful?”

Ms. Schassler-Owens: Absolutely. I just want to correct a few things that I did hear here that the house was never ever a two-family house. As we stated, we went back to 1970 my grandmother lived in that house alone at that time and she lived upstairs. It was only upstairs. Downstairs of the house was a garage and right now it’s just aluminum sided over where the garage door was and my grandfather used to be the Superintendent of Highways back then and that’s where he would bring home at night the Town truck and park it under there. That went back to the 50’s. He’s always lived in it. It was never a barn; it was a house made with the garages underneath to house the Town trucks. I guess the Town at that time had no Town garage. So my grandmother lived up there until she did need to go to a nursing home, the last three (3) of so years of her life, and at that point I had been with her, me and my husband had lived with her in that house before she had gone into the nursing home. At that point, David did buy that house before my grandmother passed away. He did renovate it. When he renovated it, he renovated downstairs which was just a total garage, concrete floors, just the beams and structure of the house. It was never ever ever lived in. Us kids played in there and there was a sub-basement in a dirt cellar where we used to play Army in it, but as far as somebody living in it – no.

Chairman Wright: Just so I am clear – the house we are talking about you are saying the top story was essentially living space...

Ms. Schassler-Owens: Yes.

Chairman Wright: bottom was the parking garage...

Ms. Schassler-Owens: Yes.

Chairman Wright: At some point that was renovated...

Ms. Schassler-Owens: When David, when young David’s father bought the house. He decided to make it a two-family.

Chairman Wright: And what is your relationship to the applicant?

Ms. Schassler-Owens: Young David – I guess he’s my cousin; second or whatever. I don’t know take it down the road, but his father, David, and my father were...David’s father, Tom, and my father, Maurice Schassler, were brothers and Tom Schassler never lived in the house when my grandmother lived there. He did move away. When he came back, David had already made it a two-family house so he lived downstairs for maybe less than a year and then he bought a trailer right in the trailer park there in Stony Point. That was Tom Schassler.

So there’s only been non-relatives living in the house and does it get crazy between upstairs and downstairs the answer is yes. You are getting cars in there. Snow...we have a one-way lane; one-way, you can’t fit two (2) cars going down that road. Snow in the winter...there’s no place to put snow. So they kind of when they go down the street it gets pushed in front of people’s properties. When you come back up the street, it’s kind of veered into there. Like God forbid there ever was a fire on that street and anything started going we are not getting out. There’s been too much building on this street. Too many cars in the street. When you are

on Washburns Lane, do you know how many times I've gone to turn in and there are cars flying up Washburns Lane and there is people flying out of the street. There's going to be a big accident there someday. How many people do we put on a house...when I grew up there was seven (7) houses – what's there 11...12 on the street now.

Chairman Wright: Are you or any other residents on Schassler Place that are two-family?

Ms. Schassler-Owens: (pointing at someone in the audience) They do and they have a legal. That's all I know. He is Nytko. He is the one that sat way back. He is way back there. That is as far as I know.

Chairman Wright: Any other questions?

Mr. MacCartney: I have a question – You said at one point that young David did make it into a two-family...

Ms. Schassler-Owens: No, his father...I know it gets confusing.

Mr. MacCartney: David did...you started out by saying it was never a two-family and then you said David did make it a two-family. When was that?

Ms. Schassler-Owens: He bought it in '95 or something. My father, David's father and Anastasia Phillips owned the house. It was put into their name. David, Sr., I guess I'll call him, purchased the house from them and then he built, he renovated it. At that point he renovated the downstairs into an apartment.

Mr. MacCartney: And that was about when?

Ms. Schassler-Owens: '90's, mid '90's when he took over that property I believe.

Chairman Wright: Was it his intent when he did that to make a two (2) unit residence?

Ms. Schassler-Owens: I don't know. He told my father, when my father was still alive, he wasn't going to be doing things like this. Infact, he told my father he wasn't going to subdivide the property and he did. There you go – good old Dave. I have a couple of names for him, but you are going to type this and I don't want it on paper what I call David.

Chairman Wright: Just the facts.

Ms. Schassler-Owens: It is a fact though, but I still don't think it should be in writing.

Chairman Wright: Any other questions for Ms. Schassler-Owens?

(no response)

Chairman Wright: Any other input from the public at all? Please come up and identify yourself.

**Alex Ereifej
10 Schassler Place
Stony Point, New York**

Chairman Wright: "You swear the testimony you are about to give is truthful?"

Mr. A. Ereifej: I do swear. Well I am blessed with a neighbor. We have a beautiful nice neighborhood. David he is a nice guy. He is a nice neighbor, but he doesn't live in the area. It's not like his family is expanding or he has his parents, his kids, his brothers want to live in the house that he is living in. He just wants to expand it or make it a multi-family house and wants the family house for a commercial issue. It's not for residential. He doesn't live there and he is

just expanding it to make business; to make more money or something like that. Otherwise he is a nice guy, but it doesn't work that way. It is a quiet neighborhood, but with too much traffic/cars. As she mentioned, there are too many cars in the street and there is always something like going on with the neighborhood with that street. It is very tight. One-way street and I don't think there is any way to have more residents on that street. It is already crowded. That is it.

Chairman Wright: Any questions?

(no response)

Chairman Wright: Thank you, sir. Any other input/testimony. Just identify yourself and where you live.

David Ereifej
137 North Middletown Road
Nanuet, New York

Chairman Wright: "Is the testimony you are about to give, truthful?"

Mr. D. Ereifej: Sure. #2 Schassler is my parent's house. So I go over and I visit them almost every week. I can't imagine having another house over there would cause a lot of hazard; environmental hazard and safety hazard. The snow is a big issue over there. Every time I go visit them in them in the snow it is an issue. Also, if you go to make a turn to Schassler a lot of times there is a blind-spot and if you see there is more traffic eventually I am very sure that will be...there will be an accident. So I think this is important; two (2) points the traffic in there is such bad; it cannot stand anymore cars. It just can't. Besides there is a lot of kids. My son goes over there and he plays and I don't want him to have an accident just because there is traffic in the area. I think Schassler Place is...I don't think it can fit anymore cars.

Chairman Wright: Okay, anymore questions?

(no response)

Chairman Wright: Any other input from the community at all? Mr. MacCartney...

Mr. MacCartney: The only reason you see the look on my face is because I'm just thinking I was hearing the last bit of testimony about concern...it sounded like he was saying that he was concerned about new construction and he can't stand another new house or new traffic, but it's not what I understand the application to be so that's why my brow is furrowed. Is there any new construction; is there a new house that's being planned or is it just what I thought it was which is just to legalize what's already there with no new additions or expansions or construction.

Chairman Wright: We will ask Mr. Joyce that question.

Mr. Joyce: And there is no new construction anticipated. I heard about the snow...the snow removal and the snow changing the road. The road is not going to change. Really most of what I heard to the issues were probably be addressed by the Planning Board in any case before they gave the special permit, but in any case this Board – I don't see any change in that or the traffic because the house is staying the same. There is nothing that is going to change. I heard the Board mention something about asking Mr. Sheehan about the number of cars. The house has

been used as a two-family for an extended period of time. I know I heard Ms. Schassler indicate that, is it her grandmother or great-grandmother, I think Tom Schassler is this David Schassler's grandfather/great-grandfather, but in any case I know personally that in about '95 or soon thereafter, David, Sr. had moved to the back house and then this house was always used as a two-family. Prior to that I know he lived there cause I visited him there. So there was a period of time when it was clearly a two-family where both the grandmother and David were residing there.

Chairman Wright: Is there a way we can get some sworn testimony that would say – this house has been two-family use since “x” time. Right now I’ve kind of got “it was” and “it wasn’t”.

Mr. MacCartney: Sorry to interrupt, but I think you got from Ms. Schassler that at least from the mid '90's on if I heard her testimony correctly at least from the mid '90's on that it was a two-family, but prior to that it was not. That is what I understood it to be.

(people talking in the audience – inaudible)

Mr. MacCartney: If you have knowledge, you need to come up and identify yourself.

**William Nytko
7 Schassler Place
Stony Point, New York**

Chairman Wright: “Is the testimony you are about to give truthful?”

Mr. Nytko: Yes. You have to say whenever David Schassler bought the house, did the renovations it went to two-family. It's simple.

Chairman Wright: And when was that?

Mr. Nytko: You would have that on your records.

Chairman Wright: To your recollection.

Mr. Nytko: My recollection back in 1995. I can't remember – I'm 66. I forgot last year. I couldn't tell you honestly. I was on the road and everything else. If you go through permits and all that, you will find something.

Chairman Wright: Thank you Mr. Nytko.

Mr. MacCartney: Is that Mr. Nytko? Is he the gentlemen that has a legal two-family?

Chairman Wright: Yes.

Mr. Nytko: Yes, I do. I pay taxes on it and everything.

Mr. MacCartney: Was a conditional use permit that was granted or was it before the Code?

Mr. Nytko: (inaudible – away from the microphone)

Chairman Wright: In my mind it would be helpful, Mr. Joyce I don't know if you can help me out here...I think we've kind of establishing that from '95 it was probably a two-family. Which is about the time that it came up for the thing the first time. If there is anything that pre-dates the '95 date that establishes it was a two-family then, at least to me it would be helpful.

Mr. Joyce: I don't know who I can ask. I did ask for that information earlier on and I know the grandmother has passed away. This David's grandfather, Tom Schassler, is also gone. I'm not sure who I could get; who was around back in that time frame who could provide that information. I could ask and check to see if I could submit an affidavit to the Board to that effect. But, I did make inquiries earlier on about that realizing that may be a concern, but I could not...I can ask for photographs and I think I got one (1) with a baseball player standing in front of the house, but it doesn't indicate to me what was there and what was going there. So that's the reason I didn't bother submitting that.

Chairman Wright: Is it the intent of the owner to make this a fully commercial enterprise or is it an intent to be family and then partially commercial or all family?

Mr. Joyce: Right now Sandi Schassler, David, this David Schassler's wife's parents live there. As a matter of fact when I was there waiting for the morning for the inspection from the Board, she actually came out and offered me a cup of coffee. They live downstairs. Young David is represented to me that that's who lives there and that's the reason why he...the upstairs would be rented to a third party or continued to be rented to a third party is what he intended to do. So it never is intended to be a fully commercial operation. I think his in-laws look to be around; I hate to insult people, but late 50's early 60's. So I suspect they will be there for a reasonable period of time and that's what my understanding and intent is.

Chairman Wright: Thank you. Any other questions for Mr. Joyce?

Mr. Nytko: Just for clarification – its Mr. Nytko's house that...remember I said is 100 feet off the road. It is actually 200 feet and he is the one across the street.

Chairman Wright: Any other questions for Mr. Joyce?

(no response)

Chairman Wright: Other than an affidavit from Mr. Joyce, is there any other reason to continue with the Public Hearing.

Ms. Schassler-Owens: Can I just say one more thing. Another person whose lived on the street her whole entire life is my mother who is 85. You want an affidavit; she can give you an affidavit that there was no one that lived in that house. My father's passed, but my mother has. She's lived there her whole marriage on the street. You want an affidavits about people living in there...(looking at Mr. Joyce) you might of visited David there, but David lived upstairs when you visited him there and he made the apartment downstairs and he has rented it out...there's been numerous people that have come and gone. Some of the people – go back to the police records. They were having drunken parties there and I would be calling every Saturday night and then they had to haul a few out in an ambulance. That's the kind of stuff you got and David didn't do anything about that. Whose say that's not going to happen again? But, if you do want affidavits my mother can also tell you and I personally lived in that house myself and downstairs was nothing but a garage until David lived there.

Chairman Wright: So any other input from the community?

Chairman Wright: What I might want to do is go into Executive Session. I don't know if I want to close the Public Hearing before we do that.

Mr. MacCartney: If you are looking for legal advice on something you can go in at any time for the purpose of receiving legal advice; so it's your pleasure.

Chairman Wright: Even after it is closed?

Mr. MacCartney: Yes.

Chairman Wright: So we will close the Public Hearing.

*****MOTION:** Mr. Casscles made a motion to close the Public Hearing; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

Chairman Wright: Next item on the agenda then is the minutes from July 21, 2016.

*****MOTION:** Mr. Casscles made a motion to accept the minutes of July 21, 2016; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

Chairman Wright: Mr. Gubitosa sent me an email inviting one (1) of us to the T.A.C. meetings for the Planning Board. Now the time is Friday afternoon. If anyone is interested I will send you the time and you can contact Mr. Gubitosa.

Mr. Sheehan: It is the 2nd Thursday of the month at 1:00 P.M.

Mr. Casscles: 1 P.M. – your office.

Mr. Sheehan: Yes.

Chairman Wright: Mr. Sheehan thank you for coming.

Mr. Sheehan: No problem.

Chairman Wright: With that, I would like to go into Executive Session.

*****MOTION:** Mr. Casscles made a motion at 7:44 PM to go into Executive Session, pending litigation; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Anginoli made a motion at 8:33 PM, to reconvene to regular Zoning Board of Appeals meeting; seconded by Mr. Lynch. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Casscles made a motion to adjourn the meeting of September 1, 2016; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan
Secretary
Zoning Board of Appeals