

**MINUTES OF THE COHOES ZONING BOARD OF APPEALS HELD IN THE  
COMMON COUNCIL CHAMBERS OF COHOES CITY HALL ON WEDNESDAY,  
MARCH 23, 2022 AT 6:30 PM**

**MEMBERS PRESENT:** Mr. Greg Mollnow, Chairperson  
Mr. Anthony Kusaywa, Vice Chair  
Mr. Mark Cotch  
Ms. Carolyn Dion  
Ms. Jacqueline DeChiaro

**MEMBERS ABSENT:** None

**ALSO PRESENT:** Joe Seman-Graves, City Planner  
Sharon Butler, Administrative Assistant

Chairperson Mollnow; we will call the meeting to start at 6:31PM.  
Roll Call taken; all members present

**CONSIDERATION OF THE MINUTES FROM THE NOVEMBER 17, 2021 MEETING**

Chairperson Mollnow; first order of business, we will review the November 17<sup>th</sup> meeting minutes  
Member Cotch; I'll make a motion that we accept  
Vice Chair Kusaywa; I'll 2nd

All in favor, motion carried unanimously

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch	X		
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

**CONSIDERATION OF 8 AREA VARIANCES FOR 45 JOHNSTON AVENUE**

Chairperson Mollnow: next order of business is the consideration of 8 area variances at 45 Johnston Avenue. The applicant is proposing 16 residential apartments at the old St. Agnes School located at 45 Johnston Avenue in the multi-family residential zoning district. The 8 variances being sought are; minimum lot size requirement for a multifamily dwelling is 10,000 sq. ft. and the current lot size is 9,000sq. ft. Front setback is required to be 5'-15' from the property line and the current setback is 0'. Side setback on the Mangam Street side of the building is required to be 10' and the current setback is 0'. Rear setback is required to be a minimum of 20' and the current setback is approximately 3'. Maximum allowable lot coverage requirement for a multifamily dwelling is 50% and the current lot coverage is 90%. Greenspace requires 2 separate variances; the lot itself is required to have 50% greenspace, and currently there is approximately 10% green space, multifamily dwellings require a minimum of 1,600

sq.ft. of green space and there is currently 1,200 sq. ft. of greenspace on the lot. And the last variance; multifamily dwellings are required to have no more than 10 dwelling units per building and the applicant is proposing 16 dwelling units. The existing structure was built in 1916 and was utilized as the site of St. Agnes School for many of those years. The property is an existing legal non-conforming structure and the applicant is looking to put the property to use without altering the layout of the existing site. The applicant went to the planning board on March 14<sup>th</sup> 2022 requesting a site plan review for the 16 unit proposal. The site plan application was tabled at that time. All planning board members recommended the zoning board of appeals approve the requested variances. The applicant went to the Historic Preservation & Architectural Review board on March 15<sup>th</sup> 2022 requesting a Certificate of Appropriateness and was unanimously approved at that time.

General consideration for an area variance; the appeal under consideration is one for an area variance. For an area variance to be legally granted pursuant to Section 81 of the General City Law, the following issues must be considered:

1. The benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant;
2. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
3. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance;
4. Whether the requested area variance is substantial;
5. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
6. Whether the alleged difficulty was self-created.

From the zoning code 285-17 Powers and Duties of the Zoning Board of Appeals in making its determination in granting an area variance the Zoning Board of Appeals will take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment of the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider;

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance,

Whether the requested area variance is substantial;

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and;

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision for the board of appeals but shall not necessarily preclude the granting of the area variance.

Do we have the members of the 45 Johnston LLC here? If you guys can step up to the podium so we can get you on the recording and introduce yourselves and just tell us about this project.

I'm Peter Tyron and this is my partner Ron Stein; we are looking to convert 45 Johnston Avenue into 16 market rate apartments. The project consists of 2—2 bedroom and 14—1 bedroom units. We're looking to completely historically revamp the property which is in need of repair. The building is 2 ½ stories high and roughly 19,000 square feet in total.

Mr. Stein; one clarification on the historical rendering, on the rendering we didn't have time to put in, but the statue is remaining, the plaque is remaining and the year on the corner stone is remaining as well, that was a condition of the historical approval. The windows we're going to try to match exactly the way it was.

Chairperson Mollnow; any questions from the board before we move to public comments?

Vice Chair Kusaywa; my question is parking, it's a great idea but I know it's a congested area.

Mr. Stein; so we've been working with planning with different variations. We originally proposed 16 spots, 1 for 1 outside, then planning and the city came back and suggested that the net, net of that because across the street there are already 12 but then there would be 11 across the street from the property with the ramp for the ADA and a sidewalk. So then we proposed to restore outside and actually capture those 11 spots and with a nice sidewalk and view like the city scape on Remsen Street and then when we've been there, we've been doing a lot of going back and forth and we found that the spots across the street are only used when there are church activities. So we understand there could be this, and the spots out front haven't been used and we've pulled in and out at different times from 7 in the morning until 7 at night. We also market and we've had this experience before, we're trying to market towards people who use public transportation that is nearby as well and we'll have bike racks in the back. And we found especially that a lot of people move up to market rates, they actually use public transportation. We have 5 buildings, currently 2, 3 historic renovations in Albany and we found that we have a ratio of about 55% have cars, so if that was the case here, there would be 8 maybe 10, we feel that we could cover that and it wouldn't hurt us for rent ability either. The units are needed because as we speak, it's like a gas meter, every day it get more and more expensive. We were told with the historic windows, they are 10 months out and 120% more than what was proposed a month ago, the prices of everything is getting crazy. Member Cotch; so getting back to parking, there's no requirements Joe?

Joe Seman-Graves; the requirements are 1 spot per unit. Whereas it is the planning board decision to waive that requirement if they choose to do so. They recommended they go with the curb line existing anticipating off street parking.

Member Cotch; we usually don't include off street parking.

Joe Seman-Graves; the planning board has the ability to, so if the planning board decided not to, they could appeal that to the zoning board. There's only a few things in our zoning code that the planning board has the ability to make a decision on and that's one of them. I'd like to point out with the parking, the original plan had 16 on street spots, there were 2 reasons after I went out there with the city engineer Garry Nathan and Paul Johnson traffic engineer, and asked that this go back to the existing curb line 1 was, well I'll say 3. When you're driving down the street, the parking lanes would be about (diagram on screen) on the other side of these about half way instead of where this car would be, jutting out, so we would have to alter the roadway, that's one. Two we'd have to eliminate on street parking on both Johnston and Mangam on the other side of the street, so we'd be losing one spot overall. And then three, which is more of a Garry Nathan, right here where this concrete jut out is, (diagram on screen) there's currently an existing catch basin. So in order to move that, we would have to capture the water from both Mangam and Johnston. Now one would say logically you would put in another catch basin, one on each side that the same amount of water would be going in from 2 different spots. But the DEC looks at that as you're increasing the amount of water going into our combined sewer system, so they won't let that fly. So ultimately this would cause storm water issues, so we opted, we recommended that they go back to the existing and then go to the planning board with this because we thought there was to

many issues with what the proposal was even though that would accomplish the 1 for 1 issue if the planning board chose to count on street parking.

Member DeChiaro; I think that we're talking about 16 units and we're saying one car per unit is being hopeful because it's a one bedroom and 2 people in that bedroom and there are 2—2 bedrooms, again the potential for 2 vehicles if not 3. So when I'm looking at it I'm thinking you're going to have to plan for parking from anywhere between 16 at the minimum and a maximum of 34 cars because if there's other people living there, and I think it's wishful thinking that you're going to have one person per unit just because it's a 1 bedroom. I'm not sure but are any of these streets one way?

Joe Seman-Graves; Johnston is one way

Chairperson Mollnow; ok if there's no more comments from the board, we'll move to public comments.

Joe Seman-Graves; we did have a couple sent in. Comments were read aloud. All three comments sent in had issues with parking.

Chairperson Mollnow; ok are there any other comments from people in the room or online on the Zoom call:

Steve Napier; I can weigh in a little bit here

Chairperson Mollnow; if you could state your name and address

Steve Napier; I live at 6 Vine Street, I also work in the city as the director of community and economic development. When this project first came forward, I started to monitor the parking, wanted to get a handle on exactly what it looks like at different times of the day. I provided Joe with some photographs, that I think he can share with you if you'd like, that shows that there, in my opinion it looks like there's ample parking for the 16 units based on what's there. Given that there will be 10 spaces that will be available on street directly in front of the building and at any time of the day I never saw more than 1 car parked in front of the old school and if we're talking 1 to 1, then an additional 6 cars, I never saw anything parked on the other side of the street abutting the church or I never found a circumstance when there was not sufficient parking available for another 6 cars in the immediate surrounding half block. And I was surprised to find that, I thought I was going to find more parking trouble than I did. But I went over there I took photos in the late morning hours, the midafternoon and middle of the night. I was in fact there at 11 o'clock last night taking pictures of the parking area and I know Joe tried to include them in his presentation for today but had trouble with the files, but if members are interested he does have those photos to show you.

Chairperson Mollnow; Mr. Napier did you take photographs just Monday through Friday weekday or weekends?

Mr. Napier; it was a Wednesday afternoon, Tuesday morning and yesterday 11 o'clock at night.

Member DeChiaro; are you talking taking pictures along on either side of the road?

Joe Seman-Graves; I have the pictures I just couldn't get them in the power point.

Member DeChiaro; I believe you have pictures, my point is I wouldn't expect any cars there. There's no one living there, it's an empty building so there wouldn't be anybody parked on the street.

Chairperson Mollnow; I think what Mr. Napier is saying is the surrounding area also didn't have any parking issues, right Steve is that the opposite side of Mangam where the church is pretty open as well as Johnston Avenue opposite this?

Mr. Napier; on Johnston and Mangam abutting the church was wide open as well

Chairperson Mollnow; ok

Vice Chair Kusaywa: and you have that parking lot next to the old gym there

Chairperson Mollnow; Spindle's

Joe Seman-Graves; the school of dance does share parking with the church, however when there both in session, it does spill out into the street.

Member DeChiaro; is that public parking?

Joe Seman-Graves; it's private, the church does share with the school of dance.

Chairperson Mollnow; is there any other public comments? Joe is there anybody else on line?

Joe Seman-Graves; I think that's it

Chairperson Mollnow; ok so we'll close this section of public comments. Seems parking is the biggest issue. Members of the board any questions or comments you want to discuss?

Member Cotch; is there any way you can decrease the number of apartments?

Mr. Stein; the problem is we did go back, we've tried hybrid, we tried everything to get it there. Because when we went back and worked with the spreadsheet with the increased costs, and it's going to be a lot of work inside and the prices of everything is going higher. I don't know, we tried we know it wouldn't be financially feasible but as a give, if you want us to make them all one bedroom instead of the 2 bedroom we're ok with that. Our buildings right now, most of them are one bedroom and I'm glad that Steve concurred, we saw the same thing and we went on weekends too and exactly the same thing all around. So I know and again just from our experience and wasn't here but in the town of Albany, the city of Albany we have 25 spots for 36 one bedroom units and covered parking and it's still open, we don't, we're just a little over 50%, like I said and we see the market rate right now are geared towards less couple coming in and more single individuals looking to improve their, young professionals, that's what we're trying to market to.

Member DeChiaro; again when I look at this I see this building is in the multifamily zone and we have these zones in our city for a reason. In the proposal they mention that this project is already in a densely multi-family residential area so with it already being a dense area, we're going to approve and add more people that we want to bring into this community, into this neighborhood when it doesn't fit within our zone, having 16 units compared to 10 units? I don't, that is a 60% increase and to me that's pretty substantial. Again our codes and zoning are there for a reason, so that we're not overcrowding, we want them to look a certain way. So I have a hard time saying that we're going to move from something that's supposed to be a 10 unit and allow a 16 unit. I understand the economic piece of it. Right around the corner 2 blocks over is School 4, years past they went to apartments and they have 8 units in it, they made it fit into what our zone was. So I just have a hard time with saying, issuing a variance for this.

Mr. Stein; I completely understand what you're saying. We're here because we are interested and we really want to help and we've done historic before, 1870 building 1903, this is a little newer than that, and I totally get it. It's just that if you look at this project and we picked it up from somebody who passed on it, after they look at the prices, we just have a team that does this so, I just don't know of another use for that building. We've tried to make it work and looked at less units too. We'll go with 1 bedroom for sure as that will limit cars. We have amenities in here, washers and dryers, we're really trying to make this a really nice building and the outside is completely going to be historic and nice. And the safety talked about, we have cameras on the building and we have a new sidewalk in front, so walkability is going to be safer in that neighborhood. Right now, we went there, not only did we not see any cars but we did see a couple of vagrants and the graffiti was clean up. I think it needs to be, in my opinion, something needs to be done with it, it's not us, I don't know who will do it.

Member Dion; I love the idea of the development of the building and I think it will look really nice, but the issue is the parking just because I've driven through there many times and the streets are lined with cars. You can't rely on using the church parking lot because that's private property. If the units could be reduced to reduce the number of cars, I'd be all for it.

Chairperson Mollnow; Joe just a question, would the parking spaces have to be striped in the street or would they be typical street row, I don't know if that's a requirement.

Joe Seman-Graves; based on the site plan if it looks like it's going to be stripped it would be up to the planning board.

Chairperson Mollnow; I know stripping parking spaces makes it, 10 spaces is 10 spaces you don't over reach it and put 9 cars in 10 spaces. So I think stripping definitely helps get more spaces.

Mr. Stein; we've experience the same thing, I can only say again, I don't know that person who spoke, but we had the same experiences, I know that driving by especially and one way, it looks busy but there are really so many spots we see open. Right now I don't know, maybe it's different time of year with events going on at night, but our people would be understanding and we'll market to the type of people we have experience with, and all don't have cars.

Chairperson Mollnow; any other questions or comments from the board? Ok so at this time we'll move on voting on the variances. I would like to vote on each variance separately that way we can keep them clear. We'll start with the first one and work our way down. I'll make a motion to approve the variance for the 1,000 square foot reduction on the current lot size from 10,000 to 9,000

Vice Chair Kusaywa; I'll 2nd

Motion carried to approve variance #1

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion		X	
Jacqueline DeChiaro	X		

Chairperson Mollnow; moving on to the second variance; front setback minimum requirement of 5 feet to 0 feet. I will make a motion to approve this variance

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #2

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

Chairperson Mollnow; I will make a motion to approve the variance for the side setback; it's required to be 10', it is currently 0 feet

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #3

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

Chairperson Mollnow; moving on to the next one, I will make a motion to approve the rear setback requirement of 20' to approximately 3'

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #4

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

Chairperson Mollnow; I will make a motion to approve the variance for the allowable lot coverage to be a 40% relief from the 50% to 90%.

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #5

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

Chairperson Mollnow; for the first greenspace variance, I'll make a motion to approve the lot itself requiring 50% greenspace and only have 10%.

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #6

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>ABSTAIN</u></b>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro		X	

Chairperson Mollnow; the 2<sup>nd</sup> green space I'll make a motion to approve the multi-family dwelling requiring 1,600 square feet and only currently having 1,200 square feet

Vice Chair Kusaywa; I'll 2<sup>nd</sup>

Motion carried to approve variance #7

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro		X	

Chairperson Mollnow; now on to the last variance, multi-family dwelling requiring to have to more than 10 dwelling units per building. This applicant is proposing 16 dwelling units, a 6 unit relief. Does anybody want to make a motion on this one, I feel I might be a minority on this one.

Vice Chair Kusaywa; I like the concept so I'm going to say yes

Chairperson Mollnow; you're making a motion to approve the variance?

Vice Chair Kusaywa; yes

Chairperson Mollnow; I'll 2<sup>nd</sup> that, pending the planning board with the parking spaces approval and plan and that they are all single rooms or single units.

Motion was DENIED for variance #8

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
Greg Mollnow	X		
Mark Cotch		X	
Anthony Kusaywa	X		
Carolyn Dion		X	
Jacqueline DeChiaro		X	

Chairperson Mollnow; thank you gentlemen for your time.

Mr. Stein; is there a chance to come back, is there, the question is, is that it, is there a number that would work for anybody that said no, should we come back is there a number somewhere above 10 closer to 16 or near 16?

Member Dion; I love the idea of the development, my fear is, I know how congested that area can get. My only thing I'm worried about is 16 units and the parking.

Mr. Stein; so is there a number between 10 and 16, we'll rework the numbers and the plan. I mean we have historic approval, we've been before planning and IDA. We really want to get it done, we can go back and try to sharpen the pencils but, if there's not a number above 10, I know 10 is not going to work so I want to know if there's a number we should try for and then resubmit next month. I don't want to guess at it, I just want to be direct with everybody, we want to do it. I understand 16 didn't work, it's got to be 1 bedroom, I got that. Is there a number above 10?

Member Cotch; 10 would be the most reasonable.

Joe Seman-Graves; so 10 3 or 4 bedroom?

Member Cotch; 10 3 or 4 bedroom?

Chairperson Mollnow; because as long as it's 10 dwellings they can have as many bedrooms as they want, right Joe?

Joe Seman-Graves; yes

Chairperson Mollnow; it just has to be the 10 dwellings per the current zone

Joe Seman-Graves; yes. Can I ask because I have to go back to the planning board, what would be the difference in parking between 10-- 3 or 4 bedroom and 16 one bedroom units?

Member Cotch; well if you figure there single bedroom that's going to be 1 car for every one right? So 16 cars, are you thinking if there is 3 bedrooms there will be 3 cars?

Joe Seman-Graves; if you have 3 roommates then possibly.

Member Cotch; I don't know, I just don't think, I think 16 is way to many

Mr. Stein; I understand that concern. I'm just trying to see if there's a number, I'm just trying to have an open discussion not trying to force it one way or the other. We've been as open as much as we can be and we're just trying to see if there's a number we can work on and come back and see if we can make it work

Member Dion; for me personally, I would have to do a drive-by on weekends and evenings just to check to see it after everybody gets home from work. I would do it for several days and see what the realistic look is on the parking, for me just to make sure there's spaces. If it could go down to maybe 14, but I don't know, we want to make it cost effective for you guys

Mr. Stein; we can rearrange some, again as we currently have it planned that's how it works. We would have to rearrange and try to save on costs of, we would have to look at which apartments to take off, which are the most costly to build I guess, is that a fair way to put it? So if we're going to cut apartments it's going to be the most expensive ones, it's not necessarily the biggest. I can go back to the construction team, and the estimate on the subs and figure out which apartments and look at which are the most cost to build and see if we can take those out and what does that do to cost versus the revenue. I just don't want to do it and come back and you say something, is it 14 or is it something else, we know it's not above 14 so is it 14, I don't want to play a guessing game. We just really want to do the project.

Chairperson Mollnow; can I make a motion to table this last variance until next month? That will give members of the board time to drive around the site over the next month and see what the parking situations is and then if you guys could as well take a look what it would be, you said 10 is not possible for you, if you could do a 12 and 14 to see if either of those will work and then next month we'll all know more on the parking situation and you guys can tell us more about if the reduction to 14 makes sense but 12 doesn't, 15 or 13. If we can get some more information on that. Does that work for the members of the board?

Joe Seman-Graves; I would just ask that the recommendations are not arbitrary. So if we are saying 16 to 14 because 10 is what the zoning code says and that's where member DeChiaro is coming from.

Member DeChiaro; well I look at the code and said that, then I look at what our questions are; does that variance going up 60%, the 6 more than the 10 in our code, is that substantial? I would say yes, if our code says 10 and you're asking for 6 more units, that's pretty substantial. Does it have a negative impact on the environmental condition of the neighborhood; obviously it does, traffic, people, parking. And was it self-created; that sounds negative but.....

Mr. Stein; no we've been through this, this isn't our first, we understand the negative

Member DeChiaro; yes be.....(inaudible to many people talking at the same time)

Mr. Stein; with all due respect changing it, the 2 to 1 bedroom does save at least one parking for each one, right? And then lower it to 14 that 4 cars in our original proposal and it brings it down to the 40% instead of 60% under 50. Is there any way to work with that number and I know everybody needs to take a look, if the number is not viable again is it 13 then? I know 10 won't

work and I know I'll have to rearrange it and have to work with the subs, maybe postpone until some prices come down but I just want to know and we need to...

Chairperson Mollnow; you need a target to work at

Mr. Stein; yes

Joe Seman-Graves; when I say not arbitrary though, if we are saying 14 for instance here, spend the time and go look at the site and if there's a case to be made for 14 make that case, if 16 seems reasonable make that case, if it's 12 make that case. But just come back with some information other than it doesn't feel appropriate. And that's all I ask because that will help the planning board as well what your thoughts are.

Chairperson Mollnow; so I'll make a motion to TABLE the last variance

Member Cotch; I'll 2<sup>nd</sup> it

Motion carried to **rescind the last Denial motion and pass the motion to TABLE variance #8**

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
Greg Mollnow	X		
Mark Cotch	X		
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

### **CONSIDERATION OF A USE VARIANCE FOR 3 PLATT STREET**

Chairperson Mollnow; moving on to the next variance, the consideration of a use variance for 3 Platt Street. Applicant is seeking to add 2 residential apartments at the existing property at 3 Platt Street. The property is in the R-1 residential zoning district. The property in question has operated as a four-unit multifamily dwelling since its construction in the 1950's and is considered a legal nonconforming use because multifamily residential dwellings are not permitted in the R-1 residential zoning district. Zoning requirements; the intent of the residential district-1 (R-1) is to encourage the continuation and improvement of existing single family neighborhoods in the City of Cohoes and to protect the health, safety and general welfare of those residing within the district. The purpose of the Multifamily Residential District (MFR) is to provide an area for mixed or multifamily residential development at a density consistent with the surrounding residential uses. In existing mixed-use area of the Multifamily Residential District and subject to a special use permit, small commercial uses may also be appropriate, generally in existing buildings. Generally, these area are located near commercial/service centers and provide a transition between residential and commercial/industrial areas. The applicant is requesting a use variance in order to operate a multifamily dwelling at the property at 3 Platt Street. The current zoning of the property is R-1 Residential and will be required to be rezoned to MFR Multifamily Residential in order for the applicant to occupy the property as a legally conforming use. To receive a use variance the applicant will need to satisfy all of the following conditions:

1. The applicant cannot realize a reasonable return, provided that the lack of return is substantial as 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 has not been self-created.

Do we have the applicant here, Mr. Hebert? If you could give us an overview of your project.

Garret Hebert; so 3 Platt Street, we recently purchased it and we're looking to renovate it. It's been neglected for about the last 8 to 10 years, so I'm looking to spruce this property up as it sits right now. I have a brief description of the financials, all the way down to the net income on it as it sits right now with the 4 tenants in it. I'm collecting \$600 a month, it only brings about 28,000 in, after all expenses that leaves me a net around 4,000 and that's if all goes well, the roof doesn't leak, the hot water tank doesn't go. So we're looking to spruce up the 4 units and add an additional 2 units in the basement. This is the only house on the block that hasn't been spruced up and have some curb appeal to it, so I'm basically looking to make Platt Street look beautiful.

Chairperson Mollnow; members of the board any questions?

Member Cotch; do you have parking?

Mr. Hebert; yes, there's parking for the 4 units that is currently there right now. To the left of the building there's an additional lot with plenty of parking for an additional 2 units. There's a detached garage right in front of it as well, parking will be no issue at all

Member DeChiaro; it's on a dead end street?

Mr. Hebert; yes

Chairperson Mollnow; it abuts right at the entrance of Harmony Hill high school correct?

Mr. Hebert; yes

Chairperson Mollnow; any other questions from the board before I go to public comments? Joe any public comments sent in?

Joe Seman-Graves; one sent in which was read aloud (anonymous)

Chairperson Mollnow; Joe I know we don't have the name but do we have an area of where they live? Are they from, are they in that area?

Joe Seman-Graves; they did not give the area where they're from

Chairperson Mollnow; ok are there any other public comments from people in the room? So at this time I'll close, sorry anybody on the zoom call that has any public comments?

Joe Seman-Graves; no one

Chairperson Mollnow; ok so at this time we'll close the section of public comments and go over to the board comments

Member DeChiaro; I'll start, again this is an R-1 zone, residential you just read it, that multifamily are not permitted in the R-1 zones. We have areas in the city that are. I get that this house has been there and it's grandfathered in but again we have zones in the city to maintain certain characters. This already is nonconforming, I don't see where a variance to add 2 more apartments, making it a 6 unit in an area of our city where you're saying you don't allow multifamily houses in, is somehow a good thing for the neighborhood there. I understand you're wanting to try to economically make more money, perhaps one of the things you can do is increase your rent. Rents are getting high, lots of people are getting more than \$600 per unit these days in our city. Again you say you purchased it from family so you were well aware of the condition of the house, the use of the house, the money you make on the house. And then the other part, you say it is currently an eyesore, you want to make it a safe place to live but I think you're saying 2 – 1 bedroom, there's not going to be any kids in these apartments.

Chairperson Mollnow; my biggest concern is the amount of foot traffic, that walks past that and you add 2 more apartments in the area, that is 2 more cars, that's more traffic.

Mr. Hebert; so this building in the past has been operated as a 5 unit, so it wasn't on the up and up it wasn't to code or anything. So prior to purchasing it you know I tried to do as much due diligence as possible. I reached out and they sent someone from the building department and I explained what I was trying to do prior to purchasing the building to make sure of course that I could do it. The big thing was the egress windows, so coming into it, I figured I would just have to make it to building codes. After purchasing it of course, it's assessed as a commercial property but it's zoned in a residential neighborhood. So my argument is keeping it even as a 4 family, if this property God forbid burned down, I can't rebuild it as a 4 unit. So it was operating as a 5 unit before, all I simply want to do is make it to code and they only utilize 50% of the basement, so why not utilize the other 50%?

Member DeChiaro; I'm going back to my original comment R-1 zone we're saying only single family houses, of course if this is the case then we'll be going through a lot of variances for everyone who has a single family home in R-1 district who want to subdivide their house, then what happens to the community, what happens to the neighborhoods?

Member Dion; it sets a president.

Chairperson Mollnow; any other comments or questions from the board? Jackie would you like to make a motion?

Member DeChiaro; I make a motion to not

Chairperson Mollnow: to not approve? I will 2<sup>nd</sup> that

Motion carried to **DENY** the use variance at 3 Platt Street

	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
Greg Mollnow	X		
Mark Cotch	X		
Anthony Kusaywa	X		
Carolyn Dion	X		
Jacqueline DeChiaro	X		

Mr. Hebert; so whoever buys this building even if they keep it as a 4 unit, my insurance on this building is \$3,000 it commercial insurance, so it doesn't make any sense for anyone to buy this building because if something happens to it, even if it's more than 50% damage you can't rebuild it, you can't fix it. So this building is going to sit distressed from here on out. My great grandfather built this building, all I want to do is get it up to speed and up to time. I live in Cohoes, I lived in Cohoes my whole life. I'm very hands on, very familiar with everything. If you could reconsider, I'm financially invested in this thing and if I can't do it my only option is to sell it to somebody who's not going to care about it as much as me.

Chairperson Mollnow; I think my biggest concern is everything that Jackie has already said, it's zoned R-1, it was built prior to the zoning code and nobody every contested the zoning code when it was updated, correct Joe?

Joe Seman-Graves; there's no records of anyone contesting it.

Chairperson Mollnow; my feeling was if it was intended to stay multi-family, then somebody should have contested it when the new zoning was established, because of that, what Jackie has already said, I don't feel comfortable saying we should just start letting multi-family build in the R-1 district. I understand it's a condition you bought into, but I don't feel it allows us to alleviate the requirements of the variance, specifically the 4<sup>th</sup> item on the use variance requirement, and all

of these need to be satisfied, it's not like an area variance. With use variances they all have to be satisfied, the alleged hardship has not been self-created; it's a known issue that you had when you bought the property.

Mr. Hebert; yes and no. I reached out and did as much, it's not like I got typical financing on it, I had to get creative financing so, typically they'd send, I forgot exactly what it's called,

Joe Seman-Graves; zoning verification letter

Mr. Hebert; yes, so it's not like anybody tried to cover my rear end on that, and I'm new at this, I'm just trying to get started with this. I've done everything, I've done 7 single family re-habs and was able to refinance those and hold on to those, then just continue on renting them out. I'm trying to expand my portfolio and this is the only way I can do it.

Chairperson Mollnow; unfortunately we can't use this is my first time

Mr. Hebert; I'm not trying to make excuses

Chairperson Mollnow; the problem is you have to meet all of these requirements, it's not hey we're doing this but we're doing this instead like the last property, where it's an existing building and some of the land lock issues they have, unlike this one, where all the requirements have to be met. The first one where you can not realize a reasonable return provided the lack of return is substantial as demonstrated by competent financial evidence; I think you kind of met that by saying hey we're trying to make more money, but we're also trying to make it, if the building burns down we can rebuild it, I understand that point. To me that point is on the fence of being met. Alleged hardship relating to the property in question is unique and does not apply to a substantial portion of this district or neighborhood, to me that is not really well met because it is an R-1 district—it's a multi-family being squeezed in, like I said.....

Mr. Hebert; it was build prior to being R-1 district right?

Chairperson Mollnow; yes and like I said, when the zones we're established someone should have contested that, we've had this issue come up before and we've denied variance for the same reasons. It's not on the city to, it's up to the homeowner to make the defense for their land.

Mr. Hebert; so anything 4 units or under is residential so I can sell someone a 4 unit house and they can get a residential loan on it, just like 23-25 Vliet Street, that I just sold. If this stays as a 4 unit and something happens to it, can I rebuild it as a 4 unit?

Joe Seman-Graves; I think we're talking 2 different things. The zone is one thing, the commercial classification where, you are looking at a commercial building in the sense of what you're paying for, what you're assessed at because it's an existing 4 unit but the zone itself is kind of the overlaying entity. You're not zoned properly, you're existing, so you're assessed as a 4 unit whether it's commercial or how it's assessed, what you're paying in taxes, what you're paying for insurance are separate from zoning, I just want to make that clear.

Mr. Hebert; absolutely I understand. My argument is, and I don't think I'm going to make any progress with it, but what is anybody going to do with this, this building is just going to depreciate and fall apart. There's a gentleman building a single family across the street he's got a 20 foot hole dug, the street is covered in mud it's a disaster, that's the only thing I can do with this building is tear it down and build a single family. That's the only thing anybody can do with it. Nobody's going to buy a build that runs as a multifamily but if something happens to it, then they're just out. So what is anybody going to do with this building?

Chairperson Mollnow; unfortunately that's not up to use to make that decision, the biggest thing as a zoning board is try not to do any spot zoning and this is clearly in my opinion the definition of a spot zone case. Any members of the board any other questions or comments for him? Being none Chairperson Mollnow called the meeting to adjourn at 7:27PM.