

**Village of Hamilton
Zoning Board of Appeals
March 24, 2011
5:30pm
Village Courthouse**

APPROVED MINUTES

Present: Chairman Michael Clough; CEO Paul McGinnis; Members: Morgan Davies, Marilyn Upton, Corey Landstrom, Tim Trueworthy; Trustee Margaret Miller.

Public Present: Bob McVaugh, Chairman of Village Planning Board; Mayor Susanna McVaugh; Charlie Getchonis; Susan Stradling Barrett; Carl and Barb Albrecht; John Cochran; Anne Clauss; Merrill Miller; Matthew Reilly.

Call to Order: Chairman Clough called the meeting to order at 5:35pm

Approval of Agenda: Approved as written.

Approval of Minutes: A **motion** was made by Member Upton to approve the minutes of the **January 26, 2011**, meeting as written. The **motion** was seconded by Member Davies and carried.

New Business

ABC House, 7 Charles St., Appendix "A," Schedule I #14, Functional Family Unit

Anne Clauss, agent for John Cochran, presented their request to the Board for an ABC House (A Better Chance). She explained this is a 40-year-old organization that gives highly academically potential high school students who are in low performing public school areas a better chance at an education. Ms. Clauss stated it will be a community house, functional family home. There will be a resident director. They will share living space just as a regular family would. This concept is not currently allowed in an R1 district. It is desirable because it is within walking distance to downtown, Hamilton Central School, and Colgate. It will be either all male or all female.

Chairman Clough read the definition of a functional family unit. It is a group of individuals living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with zoning restrictions in resident neighborhoods. A functional family unit is not a group residence.

Member Upton stated that in schedule 1, under R1, this is not allowed. The Board agreed, with a special permit, it can be in R2, B1, or B2 zones.

Chairman Clough stated he researched the ABC House in Clinton and questioned how five students were determined. Ms. Clauss stated that it was based on two students per bedroom. Member Upton asked if any homes in the R2 or BT zones had been investigated. Ms. Clauss

stated they had not.

Chairman Clough stated the Board is not against the concept, but they are concerned with the development of R1 or R2 residences being turned into functional family units. It is the job of the ZBA to protect the R1 district. Member Upton stated there are other options available and she has not heard a reason why the ZBA should be changing it. Mr. Cochran stated the reason is he plans on donating the house to the program. He also stated there are other homes in the vicinity that have had student housing in the past. Mr. Matt Reilly stated the R1 is preferable because we want them to be part of the community. Chairman Clough stated that spot zoning is illegal. If the community is in support of this project then the zoning may change. He stated a variance is forever.

Bob McVaugh stated there is no hardship relating to the property and cannot be granted. The appropriate course of action would be an application for a zoning revision. Mr. Getchonis asked if this would be a tax exempt unit.

Member Trueworthy stated a hasty decision by the Board would not be wise. Member Davies stated he would rather see a functional family unit in an R1 than a vacant home, but is afraid of stretching the law.

Bob McVaugh stated as he reads the law, it has to be demonstrated that there is no legal use for this property which is viable, and that has not been done. There is no hardship as the property is currently rented.

Chairman Clough stated that according to the law, the criteria for granting a use variance are that the appellant must demonstrate to the ZBA that the zoning laws have created an unnecessary hardship defined to require a showing that under applicable zoning regulations the appellant has been deprived of all economic use or benefit of the property, and that the hardship is unique and does not apply to a substantial portion of the district, neighborhood or area, and that the variance, if granted, will not alter the character, and that the hardship was not self created.

Chairman Clough and Member Davies read letters they received from neighbors.

A **motion** was made by Member Upton to decline the variance request. The **motion** was seconded by Member Trueworthy and unanimously carried.

The reason for not granting the variance was the appellant did not meet the criteria.

There being no further business to come before the Board, Member Upton made a **motion** to adjourn. The **motion** was seconded by Member Landstrom and carried. The meeting adjourned at 6:40pm.

Respectfully submitted,

Kim Taranto