

**MINUTES OF THE TOWN OF FORT EDWARD ZONING BOARD OF APPEALS
MEETING HELD ON THURSDAY, JULY 15, 2021 VIA GOOGLE MEET
COMMENCING AT 6:00 P.M.**

The meeting was called to order at 6:00 p.m.

PRESENT: Chairman Ken LaFay
Jim King
Jim Maskell
Rick Fisher

ABSENT: Dolores Cogan

OTHERS PRESENT: Robin Cohen, Christopher Koenig and Aimee Mahoney

APPROVAL OF MINUTES:

MOTION by Jim King, Seconded by Jim Maskell to approve the minutes of the meeting of May 6, 2021 **ALL AYES**

BUSINESS:

**Mitchell & Robin Cohen
276 Broadway
Use Variance Application**

The following notice was published in The Post Star on July 8, 2021:

PLEASE TAKE NOTICE, the Town of Fort Edward Zoning Board of Appeals will hold a public hearing on Thursday, July 15 2021 at 6:00pm at Town Hall, 118 Broadway Fort Edward, NY 12828 to hear comments regarding the Use Variance application submitted by Mitchell Cohen located at 276 Broadway. The purpose of the application is to use a commercial building as a residence in the Town of Fort Edward, tax map #163.14-1-30

Chairman LaFay: The application is to change the use of the building from a business/dental office to residential.

Chris Koenig: Was the property once a residence and then converted into a dental office and now it's going back to a residence?

Robin Cohen: Yes

Chris Koenig: Will it be a single family?

Robin Cohen: Yes

Chris Koenig: According to the application there is no work that is needed? It is ready to go as is?

Robin Cohen: Yes

Chris Koenig: You may need to obtain a Certificate of Occupancy from the Town Code Enforcement Officer although I am not positive on that. That is outside of the purview of this Board but you may want to check with him on that. The surrounding properties are currently R-1 so this property would adjoin other R-1 properties. What is Lot 1 currently?

Robin Cohen: AIM Services offices.

Chris Koenig: I saw in the deed that as far as the driveway there is a covenant that Lot 1 and Lot 2 can't interfere with each other and have to work together to figure out parking. Is it striped?

Robin Cohen: No

Chris Koenig: The building meets the residential setback requirements, the application should be referred to the County Planning Department because it is a Use Variance that abuts the Village/Town line. This Board could issue a conditional approval based on the County's response.

Rick Fisher: Is there a deeded right of way to Parcel #2?

Robin Cohen: Yes, there is a driveway easement in the deed.

Chairman LaFay went through the Use Variance considerations with the Board:

1) Cannot realize a reasonable return as proven by substantial competent financial evidence:

- The building has been vacant since November 2018. We had been actively looking for a dentist to lease the fully equipped practice since even before that period of time unsuccessfully all the while had multiple inquiries from residential tenants standing by.

2) The alleged hardship is unique, and does not apply to a substantial portion of the district or neighborhood:

- Utilizing a vacant building as a residence is safer for the neighborhood than having an empty building. The building needs no work and an occupied building will bring in immediate revenue to offset any financial losses of the last 2 ½ years.

3) The use variance, if granted, will not alter the essential character of the neighborhood:

- The character of the neighborhood is mostly residential so a residential use would fit right in. There will be no changes to the building and gardening will enhance the property.

4) That the alleged hardship has not been self-created:

- Having retired early due to MVA and subsequent surgeries, left an ongoing business that was unable to find a substitute for and leaving the building empty after numerous attempts with and without broker for lease.

Jim King: How long ago was it a residence?

Robin Cohen: In the 70's.

MOTION by Jim King, Seconded by Jim Maskell to declare the Zoning Board Appeals lead agency for SEQR review **ALL AYES**

Chairman LaFay went through Part II of the Short EAF with the Board:

MOTION by Rick Fisher, Seconded by Jim Maskell to declare a negative declaration for SEQR review due to no potentially large adverse environmental impacts as a result of the project **ALL AYES**

MOTION by Jim King, Seconded by Jim Maskell to approve the Use Variance contingent on County Planning approval and payment of fees **ALL AYES**

Next Meeting will be July 29, 2021 at 6:00pm

- **Harrington – Use Variance**
- **Dolan Solar – Area Variance (Application not received yet)**

ADJOURNMENT:

MOTION by Rick Fisher, Seconded by Jim King to adjourn the meeting at 6:31pm **ALL AYES**

Dated: July 20, 2021

Aimee Mahoney, ZBA Clerk

