

A regular meeting of the **Zoning Board of Appeals** of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on **June 6, 2017 at 5:00 p.m.**

In attendance:

- **Members Present:** Susan Snell (ZBA Chair) / John Sansevere / Marcie Schwartzman / Frank Leo / Jeff Schneider – Alternate
- **Members Absent:** Ron Streek
- **Others Present:** Zoning Enforcement Officer, Jane Gentile (ZEO) / Mikal Sky-Shrewsbury (Clerk PT) / Martin Tillapaugh (Village Attorney, noted as Vill Atty – left during 42 Susquehanna public hearing) / (16) Members of the Public

**Susan Snell (ZBA Chair) Opened the Meeting at 5:00 PM**

## **PUBLIC HEARING (5 Items)**

**SUSAN SNELL (ZBA CHAIR) OPENED THE PUBLIC HEARING AT 5:01 PM**

- **NOTE: PUBLIC HEARINGS WERE OPENED AND CLOSED ONE AT A TIME (INDEPENDENTLY FROM ONE ANOTHER) & EACH WAS IMMEDIATELY FOLLOWED BY ITS ASSOCIATED BOARD DISCUSSION AND MOTION BEFORE THE NEXT ITEM ON THE AGENDA WAS ENTERTAINED**

### **1. 42 Susquehanna Avenue and (Alice and Sergio Gaviria)**

for a special use permit to operate a two bedroom tourist accommodation (four unit apartment structure with two long term rental units, one owner unit and one transient rental unit)

- **PRESENT/PARTICIPATING:**
  - Alice and Sergio Gaviria – applicants
- **PROPERTY / CURRENT USE DESCRIPTION**
  - 4 unit apartment house
    - 2 units on the top floor are long term rentals and are currently occupied
    - 1 unit on the bottom floor: Sergio's (owner's) studio apartment
    - 1 unit on the bottom floor: 2 bedroom to be used as a short term tourist accommodation
  - Owner operated / owner occupied (Sergio Gaviria lives on the premises)
  - More than enough parking
- **PUBLIC HEARING**
  - Explanation of the Gaviria's application
  - Discussion of the general impact of tourist accommodations on the community
    - **Jean Edmonds (47 ½ Susquehanna) / Roger MacMillan (12 Main Street) / Kate Sanford (39 Susquehanna)**
      - All expressed concern that tourist accommodations/Dreams Park rentals will be disruptive to the lives of long term residents
        - Kate Sanford described a specific incident she had experienced with Gaviria guests that had been a problem in the past (people playing ball in the street)
          - Alice Gaviria explained the people causing the problem were relatives, not tourists / she apologized and assured nothing like it would happen again
    - **Alice Gaviria stated**
      - She could be counted on to "take care of any problems" and asked people to contact her immediately if they had any complaints or concerns
    - **Susan Snell stated**
      - Most complaints tend to come from unmonitored units that were grandfathered in because they were in existence before the owner occupancy law went into effect
      - Current laws require owner occupancy / owner operation and adequate parking

- The Village has implemented a nine month moratorium on the approval of new tourist accommodations except for those already in the pipeline
  - Expects that the concerns of Village residents will be considered /addressed by the Trustees during the moratorium and reflected in an updated set of accommodation laws
- **DISCUSSION OF LOCATIONS WHERE TOURIST ACCOMMODATIONS ARE PERMITTED IN THE VILLAGE**
  - **VINCENT RUSSO (74 MAIN STREET) STATED**
    - It is important to separate residential from commercial
    - Use of residential areas for tourist accommodations and other non-residential purposes is not appropriate
    - Important to support transient activity in commercial/business districts
    - Need to establish laws so that Cooperstown works well for both the people who want to live in the Village and for those who want to be in business in the Village
  - **SUSAN SNELL (ZBA CHAIR)**
    - Summarized the definition of short term accommodations in Cooperstown
      - Cooperstown uses the term “short term accommodations” / it does NOT use the term “transient occupant”
      - any rental of less than 30 day duration
      - allowed in all zoning districts (residential, business, commercial)
  - **FRANK LEO**
    - “Short term rentals do not favor residents”
    - He plans to tell the Mayor that he is in support of changing the laws in favor of residents
- **DISCUSSION OF TOURIST ACCOMMODATION APPROVAL PROCESS/REGULATIONS**
  - **DAVID SANFORD (39 SUSQUEHANNA) ASKED**
    - If all criteria are met does ZBA automatically approve an application?
    - If approval is basically automatic what is the purpose of a public hearing?
  - **SUE SNELL STATED**
    - Provisions are put in the law to direct the development of the Village in a an acceptable direction
    - Accommodation laws (owner operated/ owner occupancy / parking) act as control mechanisms and provide criteria that facilitate objective decisions for granting/denying permits- They limit the properties that are even eligible for a Tourist Accommodation special permit. The hearings are opportunities to reinforce the importance of these criteria
  - **JOHN SANSEVERE STATED**
    - Hearings allow the public to make complaints/present concerns regarding a particular property
    - If they adequately demonstrate that approval will result in an intrusive / problematic / detrimental situation then ZBA has grounds for turning down the application
    - ZBA has turned down applications for these reasons in the past (cited some specific examples: intrusive parking / special needs neighbor)
    - John Sansevere broke down the ZBA evaluation as follows
      - ZBA looks at the property (on-site visits and compare the reality to what’s on the application to see if it will really work as stated
      - 90% if the criteria are met
      - 10% neighbor / neighborhood impact
- **DISCUSSION OF MORATORIUM (IN RESPONSE TO QUESTION BY DAVID SANFORD (39 SUSQUEHANNA))**
  - **SUSAN SNELL EXPLAINED THE PROCESS**
    - Committee consists of reps from the various boards & the Trustees & the Mayor
    - 1st meeting is on Thursday, June 8th: set up meeting schedule, general plan of issues to address during the meetings that will take place during the 9 month period

- at the end of the 9 months any new laws or modifications to existing law deemed necessary should be enacted
- **MARCY SCHWARTZMAN STATED**
  - After the committee has established the process it will use to study tourist accommodation issues, the meetings where the committee discusses the issues will be open to the public (for listening – not for public comment)
  - At some point public input will be solicited
- **DISCUSSION OF SPECIAL PERMITS / ANNUAL RENEWAL PROCESS**
  - **DAVID SANFORD (39 SUSQUEHANNA) STATED**
    - Special permits for short term rentals were not always available to all the different zoning districts & he doesn't think they should be – it is detrimental to the residential neighborhoods
  - **SUSAN SNELL STATED**
    - She feels that before the change to allow granting of Tourist Accommodations special permits in all zoning districts, a lot of tourist accommodations often could not be set up where “there was the most land and the least impact on neighbors”
    - With the exception of expanding into R1A. & R1, the general tourist accommodation laws have been in place for 25 years
    - Pre-Dreams Park special permits helped the community and created a symbiotic balance: helped make residents' homes more affordable & provided housing for nurses and others for whom home ownership did not make sense
  - **JOHN SANSEVERE STATED**
    - ZBA cannot control who the short term renters are (opera, general tourists, Dreams Park etc) once a permit is granted
  - **SUSAN SNELL & JOHN SANSEVERE BOTH STATED**
    - If complaints come to the attention of the board it can affect whether or not the permit is continued when it comes up for renewal each year
  - **JEAN EDMONDS (47 ½ SUSQUEHANNA) ASKED WHETHER ANNUAL RENEWALS INCLUDE A PUBLIC HEARING LIKE THE ONE TONIGHT**
    - **SUSAN SNELL RESPONDED**
      - Renewal process is only 2 years old & in its infancy
      - Usually handled by the ZEO (currently Jane Gentile), not the ZBA
      - New laws established during the moratorium could change the renewal process
        - A possible example of a new law might be: permits expire in 2 years and would require going through the complete application process at that time to get a new one
      - Currently, if a permit does not include special stipulations regarding term limits, it gets renewed each year indefinitely unless there is evidence of not operating in accordance with permit conditions, there are neighbor complaints or major changes in the conditions of the rental property, there is evidence of detrimental effects or there is a significant lapse in usage
      - There are mechanisms to revoke a permit if there are problems
      - Properties that are able to rent short term because they are grandfathered-in (and did not have to meet the standard requirements of special permits) can also be revoked but the process in those cases is longer and different
      - Grandfathered properties fill out a renewal form every year and pay tax
- **DISCUSSION OF PARKING ON THE 2 GAVIRIA PROPERTIES**
  - **DEVELOPMENT OF PARKING AREA**
    - **SUSAN SNELL**
      - Actual parking area is not currently as developed as the plan indicates

- An owner possessing 2 contiguous properties in which one has enough parking available to make up for inadequate parking on the property is a very unusual situation – very few similar situations exist to establish precedence on how to deal with the situation
- **ALICE GAVIRIA**
  - Working with Jane Gentile (ZEO) to stake off areas where gravel will be added to increase the amount space officially designated for parking
- **BUFFERING OF CAR HEADLIGHTS (SUSAN SNELL BROUGHT UP THIS ISSUE)**
  - **ALICE GAVIRIA STATED**
    - Most spaces direct light towards the carriage house on her other property
    - Only 2 spaces actually point towards her neighbor and those are only used if all the others are filled “they are extra”
    - Driveway angles away from the neighbors and towards her other property so lights are not a problem even when pulling into the lot
    - Bushes, fence and carriage house act as buffers to headlights
- **NEED FOR AREA VARIANCE**
  - Section 300-35.C.2 of the zoning law regarding parking was read - it clearly states that off-site parking is not allowed in tourist accommodations located within a residential district
  - **MARTIN TILLAPPAUGH (VILLAGE ATTORNEY)**
    - Acknowledged that the proposed parking plan requires an area variance
    - NOTE: at the May meeting Martin Tillapaugh (*Village attorney*) stated the Gaviria’s parking could be handled without a variance:  
*(Statement from ZBA May minutes) Martin Tillapaugh (Village attorney) stated that parking can be addressed by making a condition on the permit / a variance is not necessary*
  - **SUSAN SNELL**
    - Tonight’s public hearing was only publicized regarding the special permit for tourist accommodations – not an area variance for parking
    - Area variance hearing will need to be scheduled for the next zba meeting (currently Wed, July 5 2017)
- **IMPACT ON TRAFFIC FLOW**
  - **JOHN SANSEVERE STATED**
    - Having 13 cars going in and out could be disruptive
  - **JANE GENTILE (ZEO)**
    - Only 6 of the 13 are for short term tenants (the others are for long term)
  - **LEE EDMUNDS STATED**
    - 13 cars is a “used car lot”
    - Does not have a problem with the rental but is concerned about the behavior of transients on vacation
    - Feels it is ok to approve if permit is not forever and can be revisited
  - **ALICE GAVIRIA**
    - Existing parking is already being used at the requested intensity without complaint
- **NEXT DOOR NEIGHBOR DOES NOT HAVE A PROBLEM WITH PROPOSED PARKING**
  - Alice Gaviria stated that Monica Carrascoso is willing to make a statement that she does not have a problem with the proposed parking
- **GRANDFATHERED PROPERTIES (CARLA MACMILLAN ASKED FOR CLARIFICATION (12 MAIN STREET))**
  - **SUSAN SNELL STATED**
    - Separate category of tourist accommodations
    - Grandfathered properties received their status because of a court case lost by the village
    - Characterized by whole houses that do not have owner occupancy or on-site supervision

- Since they received their rental status through a court case rather than through existing village law, the process of & requirements for revoking privileges is different for grandfathered properties
- Under current law if enough complaints come in grandfathered properties can lose their status as short term accommodations (but it is harder to revoke than for properties that have received special permits)
- **MARCY SCHWARTZMAN STATED**
  - Changes in the law made during the moratorium will probably not affect those properties that have already received permits under the current law – only those receiving new permits after the new laws have been put into effect (most of these existing rentals will be grandfathered in under the new laws)
- **CLOSED PUBLIC HEARING FOR A SPECIAL TOURIST ACCOMMODATION PERMIT (42 SUSQUEHANNA) @ 5:43PM**
- **BOARD DISCUSSION**
  - **PARKING**
    - 42 Susquehanna has adequate parking for the proposed use
    - Susan Snell Stated
      - everything needed for 42 Susquehanna is in place because the current intensity of use is almost exactly the same as it will be if the permit is approved
  - **WHAT MOTIONS SHOULD BE MADE TONIGHT AND WHAT SHOULD BE POSTPONED UNTIL AFTER THE PUBLIC HEARING FOR THE PARKING VARIANCE THAT WILL BE HELD AT THE NEXT MEETING (CURRENTLY SCHEDULED FOR JULY 5, 2017)**
    - **INDEPENDENT APPROVAL OF 42**
      - 42 Susquehanna does not require an area variance for parking and can be approved tonight
      - **SUE SNELL / JOHN SANSEVERE / JEFF SCHEIDER**
        - Willing to vote on 42 Susquehanna tonight
      - **Frank Leo**
        - Prefers to postpone voting on both properties
    - **PARTIAL APPROVAL OF 44**
      - **JEFF SCHNEIDER**
        - Inquired about partial approval of 44 Susquehanna for the number of rental units that the property already has the required spaces on site
        - Felt partial approval was warranted because it was the ZBA's fault that the area variance hearing was not held tonight
      - **JANE GENTILE (ZEO) STATED THERE ARE ACTUALLY 2 LAWFUL SPACES FOR TOURIST ACCOMMODATIONS AT 44 SUSQUEHANNA IF OWNERS PARK OFF-SITE AT 42 SUSQUEHANNA**
      - **PARTIAL APPROVAL WILL CAUSE PROBLEMS WITH APPROVING FOR THE FULL AMOUNT AT A LATER DATE BECAUSE IT WILL BE TREATED AS A NEW APPLICATION AND WILL THEN BE PROHIBITED BY THE MORATORIUM**
        - Board decided not to vote on 44 Susquehanna tonight and to leave the decision until the next ZBA meeting on July 5th
          - The application will not be affected by the moratorium because a decision will still be rendered within the required 62 days
    - **DISCUSSION OF CONDITIONS TO BE ATTACHED, IF ANY**
      - **MARCY SCHWARTZMAN**
        - Suggested considering time restrictions
          - Asked to revisit in 6 months
          - Expressed concern over how tonight's decision will impact future use if 42 and/or 44 Susquehanna are sold and end up each having different owners

- Stated that imposing term limits on the permit was not discriminatory because it was being done in response to the public concerns that have lately been expressed in great numbers
- It is a way to reassure residents that the board is paying attention to their concerns
- **JOHN SANSEVERE**
  - Felt imposing time limits was discriminatory because it was never done for any other property- he opposed them
- **OTHER BOARD MEMBERS FELT THAT REVIEW SHOULD BE TIED TO THE STANDARD NOV 1 RENEWAL DATE**
- **MOTION**
  - **MADE BY MARCY SCHWARZMAN/SECONDED BY FRANK LEO**
  - **RESOLUTION**
    - To grant a **Special Use Permit To Operate A Two Sleeping Room Tourist Accommodation @ 42 Susquehanna** as proposed (four unit apartment structure with two long term rental units, one owner unit and one transient rental unit)
  - **VOTE**
    - **AYES (5): SANSEVERE / SNELL / SCHWARTZMAN / LEO / SCHNEIDER**
    - **OPPOSED (0):**
    - **MOTION APPROVED**

2. **44 Susquehanna Avenue (Alice and Sergio Gaviria)**

for a special use permit to operate a four bedroom tourist accommodation in a (five (5) bedroom single family house)

- **PRESENT/PARTICIPATING:**
  - Alice and Sergio Gaviria – applicants
- **PROPERTY / CURRENT USE DESCRIPTION**
  - 4 bedroom house with attached efficiency apartment
  - 2 parking spaces
    - Additional parking is available on the property next door which is also owned by the applicants
  - Alice Gaviria resides on the premises but will use different bedrooms or the efficiency depending on the needs of her guests
  - Plans to rent 4 bedrooms or (3 bedrooms + the efficiency) as short term accommodations – which rooms get rented will vary depending on the needs of her guests
  - Most neighbors have written letters or signed a paper saying they do not object to the proposed use of the property(ies)
- **PUBLIC HEARING**
  - Opened hearing for 44 Susquehanna Ave (Alice & Sergio Gaviria) @ 5:44pm
  - No public comments were made (relevant comments were made during the hearing for 42 Susquehanna)
  - Closed public hearing for 44 Susquehanna @ 5:48pm
- **APPLICATION FOR 44 SUSQUEHANNA WILL REMAIN OPEN FOR CONSIDERATION BY ZBA AND BE ON THE AGENDA OF THE NEXT ZBA HEARING (CURRENTLY SCHEDULED FOR WED, JULY 5 2017) ALTHOUGH THE PUBLIC HEARING FOR THE PERMIT FOR WAS CLOSED TONIGHT**
  - This assures that
    - The case will be decided within in the 62 days after the close of the public hearing as required by Village law
    - The Gaviria’s application is not affected by the moratorium
    - Permit for 44 Susquehanna will be decided after the area variance for parking has been addressed
- **BOARD DISCUSSION**

- There was no additional board discussion
- **MOTION**
  - No motion was made tonight
  - Motion is tabled until the next ZBA meeting (currently scheduled for Wed, July 5, 2017 @5pm)
- **NEXT STEPS**
  - Schedule a public hearing re: area variance for parking for the next ZBA meeting (currently scheduled for Wed, July 5, 2017 @5pm)

3. **71 Fair Street (Nicole Retzler and Andrew Hage)**

for a 7' - 5" area variance to extend a six (6') foot high fence in front yard setback per Section 30066C.(1) - this is a joint project with Christ Episcopal Church at 69 Fair Street of a combination retaining wall/fence alongside property line (HARB is reviewing this on May 9th)

- **SUSAN SNELL (ZBA CHAIR) RECUSED HERSELF AND MARCIE SCHWARTZMAN ASSUMED THE CHAIR POSITION.**
- **PRESENT/PARTICIPATING:**
  - Nicole Retzler
- **EXPLANATION OF PROPOSED CHANGES**
  - Joint project undertaken by both the church and Retzler/Hage
  - Church is building a 2'6" high poured concrete retaining wall between 24 inches to 30 inches tall along the entire side property line to address a water run-off problem that effects its neighbor's (the Retzler/Hage property)
  - Retzler/Hage are building a 3'6" fence on top of the retaining wall for privacy purposes making the final height of the fence approx. 6 feet
    - Since the height of the fence is greater than 4 feet a variance is required in the front yard setback
    - The fence will be made of 6" cedar decking
    - The church is in favor of the fence
    - A picture was submitted
  - A variance is required because they are asking for a 6' high fence in a front yard setback where the max is a 4 foot tall fence
    - The setback will be 12 feet 5 inches instead of the standard 20 feet
- **PUBLIC HEARING**
  - Public Hearing Opened @ 6:18pm
  - Nicole Retzler
    - Submitted a letter from Christ Episcopal Church to the board in support of building the fence on top of the retaining wall
    - Mary Schwarzman (acting Chair) read the letter aloud
  - No additional public comments
  - Public Hearing Closed @ 6:22pm
- **BOARD DISCUSSION**
  - No board discussion
- **MOTION**
  - **Made by** Jeff Schneider/**Seconded by** John Sansevere
  - **RESOLUTION**
    - To grant an **Area Variance For The 7'5 Fence In The Front Setback of 71 Fair Street** as requested
  - **Vote**
    - **Ayes (4):** Sansevere / Schwartzman / Leo / Schneider
    - **Opposed (0):**
    - **Abstained (1):** Snell
  - **MOTION APPROVED**

- **NEXT STEPS**
  - **No additional steps are required**

**NOTE: SUSAN SNELL (ZBA CHAIR) RESUMED THE CHAIR POSITION**

**4. 17 Lake Street (Nicholas Preston)**

for an area variance to locate a gate in front yard setback

- **PRESENT/PARTICIPATING:**
  - There was NO representative present
- **PROPERTY / CURRENT USE DESCRIPTION**
  - House is located right across Lake Street from Lakefront park
  - Building in a setback
  - (gate to be located at front left corner of house) per Section 300-66C.(1)
  - Proposed gate is 6 feet tall. An area variance is required for anything higher than 4' within a front yard setback
    - Applying to HPARB for approval of the gate
  - There are no complaints filed
- **PUBLIC HEARING**
  - Public Hearing Opened @ 6:23pm
  - NO public comments
  - Public hearing closed @ 6:25pm
- **BOARD DISCUSSION**
  - Jane Gentile (ZEO)
    - Stated height is apx 6'
- **MOTION**
  - **Made by** John Sansevere / **Seconded** by Marcy Schwartzman
  - **Resolution**
    - To grant an **Area Variance For A 6' Gate In The Front Yard Setback of 17 Lake Street**
  - **Vote**
    - **Ayes (5):** Sansevere / Snell / Schwartzman / Leo / Schneider
    - **Opposed (0):**
    - **MOTION APPROVED**
- **NEXT STEPS**
  - No additional steps are required

**5. 25 Chestnut Street (Cooperstown Eagles, LLC)**

for a special use permit to operate a two bedroom tourist accommodation

- **PRESENT/PARTICIPATING:**
  - Joann Hubbell & other members of the LLC
- **PROPERTY / CURRENT USE DESCRIPTION**
  - Public hearing, ZBA board discussion / votes were held for this property in May 2017
    - ZBA determined that the property fit the classification of a multi-family dwelling
    - ZBA denied the area variance which would have relieved the owner occupied/owner operated requirement of the tourist accommodation regulation
  - Application was modified since coming before the ZBA in May 2017
    - Existing tenant currently residing at 25 Chestnut was added to the LLC and given 25% ownership of the building
    - The new relationship between the tenant and the LLC was established through a legal contract



- The contract states that: the tenant receives no income / is not subject to loss / cannot make decisions regarding the property / the contract can be terminated at any time / the tenant receives 25% if the building is sold and the tenant is still listed as part of the LLC
- **PUBLIC HEARING**
  - Public Hearing Opened @ 6:26pm
  - NO public comments
  - Public hearing closed @ 6:30 pm
- **BOARD DISCUSSION**
  - **DISCUSSION RE OPINION OF MARTIN TILLAPPAUGH (VILLAGE ATTORNEY)**
    - Note: Martin Tillapaugh (village attorney) was NOT PRESENT although he had planned to be available during the discussion of this application because pressing business called him away at an earlier point in the meeting
    - During a previous discussion with ZBA board members Martin Tillapaugh (village attorney) stated
      - The LLC contract was a legal document
      - He was not comfortable with it because it did not give the tenant owner any of the rights, responsibilities, risks or rewards that are typically part of ownership
      - It meets the letter of the law, but not the spirit of the law
  - **DISCUSSION OF HOW THE NEW ARRANGEMENT MEETS THE VILLAGE REQUIREMENTS OF OWNER OCCUPANCY & OWNER OPERATION**
    - Joann Hubbell stated that the tenant who is now a 25% owner will take on the role of operator
      - Tenant works downstairs and lives on-site
  - **DISCUSSION OF WHETHER OR NOT THE TENANT IS A "REAL" OWNER**

because his relationship with the LLC requires NO personal investment, bestows NO financial benefit or consequences, bestows NO decision making power

    - **MARCY SCHWARTZMAN STATED**
      - concerned that other applicants will try to avoid the owner occupied / owner operated regulations by creating LLC's of their own- feels it is important to consider how the decision in this case will affect future applications
      - the idea of the village law is that the property is occupied and operated by someone who "has skin in the game"
      - although the tenant's name is listed as an LLC owner, he does NOT have skin in the game because he is not impacted in terms of finances or responsibility and the relationship with the LLC can be terminated at any time
    - **JEFF SCHNEIDER STATED**
      - Applicants have fulfilled the letter of the law but not the spirit of the law
      - If it is legal then ZBA needs to approve the application
    - **JOHN SANSEVERE STATED**
      - If the tenant is removed from the LLC then the tourist accommodation permit goes away
    - **SUSAN SNELL (ZBA CHAIR) STATED**
      - the agreement that was drawn up between the tenant and the LLC is not that different from one you'd see if they had hired a manager
    - **VINCENT RUSSO, COOPERSTOWN BUSINESS OWNER STATED**
      - When a corporation owns a building, the owner on the deed is NOT an individual – owner occupied/ owner operated has to have a different meaning
  - **DISCUSSION OF WHETHER ZBA BOARD MEMBERS FELT COMFORTABLE ENOUGH TO TAKE A VOTE**
    - **MARCY SCHWARZMAN AND FRANK LEO BOTH STATED**
      - they were not comfortable making a decision without hearing what Martin Tillapaugh (Village attorney) had to say
    - **SUSAN SNELL (ZBA CHAIR) STATED**

- Although she has some concerns, she feels they can be addressed by establishing a time limit so that the permit will completely expire and require application for a brand new permit after the moratorium is over and the Village has established new tourist accommodation laws
- At the time of reapplication the applicants will be subject to the new laws which will have taken this type of situation and many others into consideration
- The motion needs to include a condition
  - specifying an expiration date for the permit being granted
  - stating that reapplication for a new permit may be subject to a different set of Village laws than the one's governing today's decision
  - this condition is unique to this property/application only – it will not apply to other permits granted before the moratorium was established (this property will NOT be grandfathered under existing law /other approved properties will be)
- **JOHN SANSEVERE STATED HE DID NOT FEEL THIS PROPERTY SHOULD BE TREATED DIFFERENTLY**
- **MARCY SCHWARTZMAN STATED**
  - that if they were not going to include a time limit as a condition of approval then the vote should be postponed until after they spoke more fully with the Village attorney
- **MOTION**
  - **Made by** Susan Snell / **Seconded by** Marcy Schwartzman
  - **Resolution**
    - To approve a permit for a **2 Sleeping Room Tourist Accommodation** for the property at **25 Chestnut Street**, Cooperstown (in accord with the revised application which includes newly established owner occupancy) with the following condition
      - **The permit will terminate** 3 months after the conclusion of the Village's 9-month moratorium.
      - **After the existing permit terminates, applicants will be required to apply for a completely new permit** that will be subject to the Village laws in effect at the time of the new application (NOT the laws that are in effect today)
- **Additional Discussion**
  - **SUSAN SNELL GAVE THE APPLICANTS AN EXPLANATION OF THE UNIQUE CONDITION ATTACHED TO THE MOTION JANE GENTILE (ZEO) READ THE DEFINITION OF AN "OWNER" AS DEFINED BY THE VILLAGE FOR THE PURPOSES OF THE TOURIST ACCOMMODATION LAW**
    - person, persons or organization that appears on the deed
    - person in residence must have at least a 25% share in the property
  - **THE BOARD CLARIFIED THAT**
    - The name of the LLC has to be on the deed – the names of the individuals owning the LLC would not appear there
    - The applicants have met the requirements of the law because the tenant whose name has been added to the LLC owns 25% of the property and resides on the premises
    - The condition attached to the resolution means that if approved tonight, the applicants have no guarantee that they will meet the requirements put in place during the moratorium and may not be approved when they reapply
  - **JANE GENTILE (ZEO) REQUESTED A REVISION TO THE EXPIRATION/REAPPLICATION DATE SPECIFIED IN THE CONDITION**
    - Standard renewal process will require applicants to renew November 2017 along with all other applicants – this is before the moratorium ends
    - Suggested setting an expiration date to coincide with the standard 1 year end of the renewal – permit would expire December 31, 2018
  - **THE BOARD DISCUSSED WHETHER IT WAS OK TO INCLUDE A CONDITION THAT MAY RESULT IN THE APPLICANTS LOSING THEIR PERMIT AT A LATER DATE EVEN IF APPROVED TONIGHT**

- **AMENDED MOTION**
  - **Made by** Susan Snell /**Seconded by** Frank Leo
  - **Resolution (Amended)**
    - To approve a permit for a **2 Sleeping Room Tourist Accommodation** for the property at **25 Chestnut Street**, Cooperstown (as proposed in the revised application which includes newly established owner occupancy)  
with the following condition
      - **The permit will terminated on December 31, 2018**
      - After the existing permit expires, **applicants will be required to apply for a completely new permit that will be subject to the Village laws in effect at the time of the new application (NOT the laws that are in effect today)**

- **Vote**
  - **Ayes (4):** Sansevere / Snell / Schwartzman / Leo
  - **Opposed (0):**
  - **Abstain (1):** Jeff Schneider (stated he abstained because of the condition imposed)
  - **MOTION APPROVED**
- **NEXT STEPS**
  - No additional steps are required

**6. Review Of the Zoning Board Of Appeals Meeting Minutes For May 8, 2017**

- **CORRECTION(S) REQUESTED**
  - Requested by Marcie Schwartzman  
typo "joann" should be capitalized (agenda item 1, line 13)
- **MOTION**
  - To approve the minutes with requested corrections
  - **Motion made by** Marcie Schwartzman / **Seconded by** Frank Leo
  - **VOTE:**
    - **AYES (5):** Snell / Sansevere / Schwartzman / Leo / Schneider
    - **NAYS (0):**
    - **MOTION APPROVED**

**OTHER BUSINESS**

- No other business was discussed

**MEETING CLOSED 6:57 PM**