

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of April 3<sup>rd</sup>, 2025**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter  
Ms. Davis  
Mr. Veras  
Chairman Wright

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of April 3, 2025, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

---

Chairman Wright called for the first item on the agenda.

**Request of Alex Goldberger – 117 W. Main St – App. #24-07 (Interpretation/Appeal)**

In response to your August 19, 2024, letter, related to applicability of previously granted zoning variances and applicability of recently adopted zoning code changes to section 215-92.2, the following interpretations have been determined by the Building Inspector:

1. According to zoning code section 215-25 F, “Any relief granted by the Board of Appeals shall expire 18 months after the Board of Appeals actually votes to grant such relief, irrespective of the date such approval has been reduced to writing, unless a building permit, certificate of occupancy or certificate of use relating to such relief has been issued”
2. A review of the subject parcel’s Building Department files produced no evidence of a Building Permit having been issued for a project related to the variances granted in March of 1992.
3. Since no Building Permit was issued, the variances granted in March of 1992 expired in August of 1993. Variances would only “run with the land” if the proposal at the time (a medical arts center) had been made permanent through issuance of a Building Permit and completion of the project.
4. Zoning Code section 215-92.2 regarding Residential Mixed-Use Developments in the BU Zoning District was amended by Local Law #3 of 2024 which was adopted/enacted March 12, 2024.
5. The language of the adopted amendments to 215-92.2 mentions no provisions to allow the previous version of the code to apply to new applications or to applications pending before one of the Town’s review boards.
6. There was no Conditional Use or other permit approved or issued, for the currently proposed concept, prior to the enactment of the 2024 code amendment. The 2024 code amendments apply, not the prior version of the code.

**Section: 15.19**

**Block: 1**

**Lot: 48**

**Zone: BU**

**BOARD OF APPEALS**

**TOWN OF STONY POINT, COUNTY OF ROCKLAND**

In the Matter of Application #24-07 of Alex Goldberger, which appeals and seeks a reversal of the interpretation and determinations of the Town of Stony Point Building Inspector in a letter dated August 27, 2024 relating to property located at 117 West Main Street, Stony Point, New York, designated on the Tax Map as Section 15.19, Block 1, Lot 48, in the BU Zoning District, wherein the Building Inspector determined that (a) the prior variances granted in relation to the property on March 11, 1992, expired and are therefore not currently valid or running with the land, and (b) the applicant’s development proposal is governed by Zoning Code § 215-92.2 regarding Mixed-Use Developments in the BU Zoning District as amended by Local Law No. 3 of 2024 which was adopted/enacted on March 12, 2024, not the prior version of the Code.

WHEREAS this interpretation is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was properly noticed and conducted on January 2, February 6, and March 20, 2025, during which the Board heard and accepted abundant testimony and documentary evidence; and

WHEREAS all the evidence and testimony were carefully considered and the Zoning Board of Appeals has made the following findings and conclusions:

The applicant seeks to redevelop the property located at 117 West Main Street in Stony Point, in the BU Zoning District and in that regard has applied to the Town Planning Board for Site Plan approval. The property is currently improved with a three-story existing school building, which the applicant proposes to convert into a mixed-use development with 24 residential units and 6900 ft.<sup>2</sup> of office space on the first floor. The applicant proposes to keep the existing building and construct additions on both sides of the existing structure.

In connection with its application before the Planning Board, the applicant wrote to the Town Building Inspector, John Hager, on August 19, 2024, requesting two determinations/interpretations.

The first determination/interpretation request related to prior variances granted on March 11, 1992, by this Board for front setback, front yard, and building height (the “1992 Variances”). The applicant sought a determination from the Building Inspector that the 1992 variances run with the land and remain valid. The Building Inspector determined in his August 27, 2024, determination letter that the variances expired pursuant to Zoning Code § 215-25F and are no longer valid.

The second interpretation request relates to whether the applicant's redevelopment proposal is governed by the 2013 version of Zoning Code § 215-92.2 or the more recent Zoning Code requirements of that section enacted in 2024. The applicant sought a determination from the Building Inspector that his current Planning Board application is governed by the 2013 Code, which the applicant asserts would permit the development of 24 residential units, whereas if the current code as amended in 2024 Code applies, the applicant would be allowed fewer units (8, according to the applicant). The Building Inspector determined in August 27, 2024, determination letter that the 2024 Code amendments apply.

The applicant has appealed both determinations to this Board. For the reasons set forth herein, this Board affirms Mr. Hager’s determinations to the extent that this Board finds that (1) the prior variances indeed expired, and (2) the 2024 Code applies, not the prior 2013 version of the Code.

A. The 1992 Variances Expired

The 1992 Variances were granted in connection with a proposal back in 1991-1992 to redevelop the property and create a new Medical Arts Center. The resolution granting those variances in 1992 is part of the record, as is the underlying Site Plan. While the 1992 Zoning Board resolution granting the variances does not indicate the dimensions or locations of the variances, the 1992 Site Plan indicates that the proposed Medical Arts Center back then involved the construction of, among other things, a large new addition on the westerly side of the building (closest to what was then referred to as Church Street, referred to in the current plans as Franklin Street) and a smaller but still substantial addition on the Orchard Street (northerly) side. The 1992 Site plan indicated that variances were granted for front yard depth, providing 6.0 feet, whereas 15 feet were required by code; for front setback, providing the same 6.0 feet, whereas 40 feet were required by code; and for building height, providing 74 feet, plus or minus, whereas 30 feet was the maximum permitted height.

The 1992 Variances for front yard depth and setback appear to relate to the proposed addition on the Orchard Street side although that is unclear since there is no visible 6.0-foot dimension specifically called out on the 1992 Site Plan. The existing conditions plan submitted by the applicant on the current application shows the existing School Building to be 27.3 feet from the Orchard Street side and 65.8 feet from the westerly side, so the 1992 Variances do not appear to be related to the existing conditions; rather, they appear to be related to the new proposed additions back then for the Medical Arts Center. It is unclear from the plans or the record if the 1992 Variance allowing height of 74 feet was for the existing height of the school building, the new additions, or both.

In any event, the applicant’s current proposal is for a very different use of the premises and very different bulk. It is proposed to be a mixed-use development with first floor office space and 24 residential units, as opposed to a Medical Arts Center with no residential component at all. Likewise, the applicant now is proposing to add large structures on both the westerly and easterly sides of the existing school building, and apparently there is not any structural addition on the northerly side.

At the time the 1992 variances were granted, the Town Code did not have an expiration provision. However, in 2003, Local Law No. 5 was enacted by the Town Council, providing a new subsection F to the existing Section 215-125 of the Code. The new subsection F provided that:

"Any relief granted by the Board of Appeals shall expire 18 months after the Board of Appeals actually votes to grant such relief, irrespective of the date such approval has been reduced to writing, unless a building permit, certificate of occupancy or certificate of use relating to such relief has been issued."

As set forth in Local Law No. 5 of 2003, submitted and relied upon by the applicant herein, the Town Board specifically addressed whether this new expiration provision would be applied retroactively to variances already granted, and provided a transitional period. Specifically, paragraph 5.a of the Local Law provides that:

"For any relief granted by the Board of Appeals prior to the effective date of this local law, the following transitional duration rules shall apply:

a. Any such relief granted eighteen (18) months or more prior to the effective date of this local law, shall expire six (6) months after the effective date of this local law."

Here, the 1992 variances were clearly granted 18 months or more prior to the effective date of Local Law No. 5 in 2003 so paragraph 5.a of the Local Law governs. Accordingly, the 1992 Variances expired in the last 6 months after the enactment of Local Law No. 5 in 2003.

The applicant asserts that various permits were granted in relation to the property over the years and argues that these permits qualify to give the applicant vested rights to the variances granted. Specifically, the applicant provided a timeline setting forth the permits and events upon which it relies in support of its argument in this regard. The applicant points to the following:

- the 1992 Site Plan approval by the Planning Board;
- a 1993 demolition permit (incorrectly listed by the applicant as issued in 1992), renewed on 11/22/21, with a certificate of compliance issued on 12/1/21;
- a roof replacement permit issued on 8/15/21 [sic – should be 9/19/02], renewed on 11/22/21, with a certificate of compliance issued on 12/1/21
- a window replacement permit issued on 9/25/03, renewed on 3/1/04, with a further permit issued in 2007 and extended in 12/2010, then renewed further on 11/21/21, with a certificate of compliance issued on 11/30/21
- a permit for alterations issued in 2009 was then withdrawn in 2019
- a variance issued on 3/1/07 to allow a non-complying fence.

None of these items serve to provide any vested rights in the continuation of the 1992 Variances which were issued for the construction of a very different project almost three decades ago which in any event was long ago abandoned.

Vested rights to the variances would only accrue if the property owner undertook substantial construction and incurred substantial expenses in good faith reliance on a permit legally issued. There is no question that after the variances were granted and the site plan was approved in 1992; the concept of the Medical Arts Building was abandoned. Per the documentation submitted by the applicant, the 1993 demolition permit was only for minor interior work on the existing building consisting of only removal of some interior partitions, with a total cost of \$600.00. Not only was this not related to the actual bulk variances granted for the construction of the new additions, this minor demolition work is insufficient to create any vested rights in the variances going forward. Further, there is no proof in the record when that minor \$600 partition demolition work was done, if at all.

Likewise, all the other permits are for routine maintenance and repair and are in any event related to a completely different project and use, not the Medical Arts Center, and were for a different owner. As this Board's March 1, 2007, variance granting relief to then-owner Petr Tomkevich to allow an iron perimeter fence two feet six inches higher than the maximum permitted fence height confirms, Mr. Tomkevich was pursuing a conversion of the existing building into a single-family home, not a Medical Arts Center or other mixed-use development. In that regard, in 2007 Mr. Tomkevich even formally requested a zone change from BU to R-1 (erroneously listed as R-15 on the 7/27/06 petition) which allows single-family homes. His window and roof replacement permits and applications cited by the applicant herein are merely repair and maintenance items and are related to that proposed single family residential project, as further reflected in his 2009 permit which was specifically for "residential alterations" (it is also noteworthy that in citing this 2009 permit to advance his argument the applicant omits the word "residential" which was stated on the permit itself). In any event, there was no evidence presented that any of the window replacement and roof repairs were done prior to the expiration of the 1992 Variances.

Accordingly, the 1992 Variances granted in connection with the Medical Arts Center expired and do not run with the land.

B. The 2024 Code applies to the applicant's project, not the 2013 Code.

The applicant separately advocates that the 2013 version of Sec. 215-92.2 of the Code applies since that is the version that was in effect at the time he submitted his application. However, the rule under New York law is that the law in effect at the time the application is decided applies, not the version in effect at the time an application is submitted.

Here, on January 9, 2024, the Town Board set a public hearing to be conducted on February 13, 2024, for Local Law No. 3 amending Town Code Sec. 215-92.2. The hearing was conducted on February 13 and March 12, 2024. After the hearing was closed on March 12, the 2024 zoning code amendments were then enacted that day by the Town Board. There is no question that the 2024 amendments have been in place ever since, and so they govern the standards and review of all pending and subsequent projects, including the applicant’s proposed redevelopment project for which an application for Site Plan approval by the Planning Board was filed on February 7, 2024.

There was no provision in the local law providing any exemption for pending applications and there are no special facts here that would warrant the application of the law in existence at the time of the application rather than the time of the decision. The applicant’s first appearance before the Technical Advisory Committee for a pre-application informal discussion of its new project was after the Town Board had already voted to conduct a public hearing on the Zoning Code amendments, and the amendments were enacted only five weeks after the application was submitted. There was no delay at all in processing or acting upon the applicant’s development proposal, let alone one done in bad faith, and there is no other basis to suggest that the applicant otherwise obtained any vested right to an approval based on the application of the 2013 version of the Code.

Accordingly, the 2024 amendments to Zoning Code § 215-92.2 apply to this application, not the prior version.

NOW, THEREFORE, BE IT RESOLVED, that the Building Inspector’s determinations are affirmed to the extent that this Board finds that (1) the prior variances granted in relation to the property on March 11, 1992, expired, are not currently valid, and do not run with the land, and (2) the applicant’s development proposal is governed by Zoning Code § 215-92.2 regarding Mixed-Use Developments in the BU Zoning District as amended by Local Law No. 3 of 2024 which was adopted/enacted on March 12, 2024, not the prior version of the Code.

The matter is remanded to the Building Department for further consideration consistent with this resolution.

**Chairman Wright called for a motion to deny the application.**

**\*\*\*MOTION: Chairman Wright made a motion to deny the application.; seconded by Mr. Anginoli. All in favor; the motion was carried.**

Upon roll call, a vote to pass the foregoing resolution was as follows:  
**Mr. Keegan-yes; Mr. Anginoli-yes; Chairman Wright-yes;  
Mr. Lynch-yes; Mr. Strieter-yes; Ms. Davis-yes; Mr. Veras-yes**

Chairman Wright called for the next item on the agenda.

**Request of Richard Steinberg – 7 Highview Avenue – App. #24-11 (Area Variance)**

**1 FAMILY DETACHED DWELLING - construct new 2-story house & appurtenances**

215-94 (D) Noncomplying Lots  
"For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:  
(d) The minimum lot width and lot frontage shall be 75 feet."  
Existing lot width = 50'  
Proposed lot width = 50'  
Variance necessary = 25' (width)

Existing lot frontage = 50'  
Proposed lot frontage = 50'  
Variance necessary = 25' (frontage)

<b>Section: 20.07</b>	<b>Block: 3</b>	<b>Lot: 72</b>	<b>Zone: R1</b>
-----------------------	-----------------	----------------	-----------------

Richard Steinberg, the applicant, addressed the Board. He advised the Board that he submitted the application to the drainage agency, however, because it is only to build a house they cannot proceed with the agency before having a building permit issued. He added that the drainage agency told him they do not have sufficient staffing that would be needed to process applications prior to receiving the building permit, therefore, they can only work

on applications that have already been approved by the building inspector. Mr. Hager commented that upon review of the building permit application, the Town Engineer would have to make a referral to the drainage agency to keep the process moving forward while making proper approvals.

Chairman Wright called for a motion to close the public hearing.

**\*\*\*MOTION: Mr. Keegan made a motion to close the public hearing; seconded by Mr. Lynch. All in favor; the motion was carried.**

---

Chairman Wright called for a motion to close the meeting of April 3, 2025.

**\*\*\*MOTION: Mr. Anginoli made a motion to close the meeting of April 3, 2025; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,  
  
*Nicole Flannigan*  
Secretary  
Zoning Board of Appeals