



Village of New York Mills

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Planning - Zoning Board of Appeals

Todd Martin, Chairman
Jim Bombace, Jr.
Tom Wadas
Jacqueline Wolanin
Don Spost
Joe Sroka
Steven Collins

Code Enforcement

John Constas
Josh Angotti

June 17, 2025

ZBA/PB Meeting

The meeting was called to order at 7:02 p.m. by Chairman Todd Martin, followed by the pledge.

Present – Todd Martin, Tom Wadas, Jackie Wolanin, Joe Sroka, Steven Collins, Tim Carey, Codes Officer John Constas, and Village Attorney Kathryn Hartnett

RE: 5 Henderson Street

A motion was made by Tom Wadas to waive reading of the minutes from 4/29/25 meeting, seconded by Jackie Wolanin.

Michael Mimassi is requesting a use variance for his rental property located at 5 Henderson St. He wishes to add 2 additional apartments to an existing 2 family house that is a non-conforming 2 family dwelling in a R-1 district.

He presents a copy of the 1970 New York Mills Master Plan to the board reminding members of its existence since it has never been presented by the village.

Attorney Festine states the Master Plan (MP) is not zoning. A MP is adapted by the village just as zoning is. She could not verify the copy Mimassi had was the actual MP.

Mimassi's attorney, Kevin O'Brian, argues the MP shows zoning of R-2 for 5 Henderson St. which backs his clients argument for the past 5 years of his legal battle. O'Brian and Mimassi claim the 2 family dwelling is grandfathered in, the county even thought it was zoned R-2, he is being treated unfairly, and that the house was improperly zoned R-1 in 1973.

Attorney Festine states the property is not grandfathered because it was not consistently a 4 unit dwelling. Additionally, the house was vacant for more than 1 year in which it lost any prior grandfathered status and is now subject to zoning as the law states. Additionally, the MP was addressed in Supreme Court by Judge Clark, statement read aloud by Festine.

Open Forum:

Pat Lehman – letter was mailed to the village clerk and read aloud

Mark Nissif – 9 Henderson St. lifelong resident, states 5 Henderson was a multi-family house for years. Commercial zoning came when the laundry mat went in next door. He supports the use of a multi-family dwelling.

Jeff Martin – questions what is plan for the lot behind 5 Henderson. Nassif states he sold the lot to Mimassi and it will remain a lot as is now

Ed Wiatr- feels this case is full of discrimination against Mimassi. There appears to be a lot of resistance, depriving him of improving the dwelling

Open forum closes.

Tim Carey questions what is the total square footage of this dwelling. Mimassi states about 4,000 sqft. Tim finds, per the application, it is 3,526 sqft.

Attorney Kevin O'Brian states with the ZBA and Village history, Mimassi is trying to work with us and will provide any necessary documents regarding this property. Mimassi bought the dwelling as a 2 family, he believed at one time he had permit for 4 family which turned into lawsuit. He actually received 2 permits, 1 for first floor, 1 for second floor, verified by John Constatas. The court decided and the village conceded it could be a 2 family as the size was impractical for a 1 family. Judge Clark provided a very detailed decision and the appellate court upheld the decision.

Chair Todd Martin reads Section 7712-B of the Village Law - Criteria for Use Variance, which states No Use Variance shall be granted without the applicant showing the zoning has caused unnecessary hardship. In order to prove unnecessary hardship, the applicant must show that under the current use:

1. there is no reasonable return
2. the hardship is unique and does not apply to a substantial portion of the neighborhood
3. if the use variance is granted, it will not alter the character of the neighborhood
4. the hardship has not been self-created

Todd Martin questions what the current rental income is. Per Mimassi, \$1,100 for each unit, \$2,200 total per month.

Tim Carey asked Mimassi why he did not look into the possibility of converting the dwelling to a 4 family prior to the purchase. Mimassi said owner could not sell because the house was non-conforming. It was taxed as a multi-family but last owner used as 1 family.

Mimassi purchased property for \$40,000, he paid cash and took a small loan which he has 10 years remaining.

Tom Wadas believes the Village Board should take a harder look at this case. The ZBA can only interpret the code.

Tom makes a motion to deny the application for a use variance but would like Mimassi to go back to the Village Board for consideration. Seconded by Tim Carey. All in favor.

No further questions at this time.

A motion to adjourn the meeting at 8:21 p.m. was made by Jackie Wolanin, seconded by Tim Carey.

Respectfully submitted,

Brenda Mitchell