

Summary of the Minutes
March 5, 2018 Regular Meeting
City of Binghamton Zoning Board of Appeals
City Council Chambers, City Hall

CALL TO ORDER

Chairman Donovan called the meeting to order at 5:15 pm.

ROLL CALL

Present: Cahill, Donovan, Landers, Pelella

Absent: Appe (excused)

Staff Present: Berling, Konetchy, McGee, Sorkin

APPROVAL OF MINUTES

Motion to approve the February 5, 2018 meeting minutes as written

Moved by Cahill, seconded by Pelella

Motion carried (3-0-1)

Ayes: Cahill, Donovan, Pelella

Nays: None

Abstain: Landers

PUBLIC HEARINGS & DELIBERATIONS

266 Main St (2017-26)

Jalal Zuwiyya appeared to provide information on an application for a Use Variance to allow residential use on the ground floor, where ground floor residential use is prohibited, as associated with the establishment of a three-bedroom single-unit dwelling in an existing building in the C-1 Service Commercial District.

The public hearing was then re-opened. No one spoke in favor of or in opposition to the proposal. No letters were received.

Motion to close the public hearing

Moved by Donovan, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

Motion issue a negative declaration under SEQR

Moved by Donovan, seconded by Cahill

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

The board then moved on to deliberation and determined the following:

- the applicant offered evidence of listing the property for sale for three years with no offers (based on realtor letter) and stated that the property was vacant for ten years, which adequately satisfied the reasonable return criteria is satisfied;
- the property is unique as it is among the last residences on Main Street;
- neighborhood character should not be altered; and
- the hardship did not appear self-created as the building appears to have been primarily a single-family residence.

Motion to approve the requested use variance, subject to review by the Office of Building and Code Enforcement and that the asphalt in the front yard be removed and returned to grass.

Moved by Cahill, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

7 Hawley St (2018-01)

Domenic Emilio and David Chase (Clark Patterson Lee), representing the applicant PIKE, appeared to provide information on an application for area variances for (1) the provision of 15 bicycle parking spaces where 60 spaces are required, (2) a 3' rear setback where 20' is the minimum, (3) 0 on-site loading spaces where 1 is the minimum, and (4) 95% lot coverage where 90% is the maximum in association with the construction of a 6-story public parking facility and 4-story mixed use building in the C-2 Downtown Business District.

The applicant is willing to explore negotiating an easement with CVS in order to gain site access from the north.

The chairman then opened the public hearing. No one spoke in favor of the proposal. Susan Pitely spoke in opposition to the proposal. Amy Shapiro spoke on the application. One letter was received. The public hearing was then closed.

Motion to close the public hearing

Moved by Donovan, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

The Planning Commission issued a negative declaration under SEQR and the traffic board approved the site plan.

The board then moved onto deliberations.

Regarding bicycle parking, the board determined the following:

- that the request is substantial based upon the requirement, but the provision of 15 bicycle parking spaces should adequately address demand;
- there should be no adverse effect on the physical or environmental conditions; and
- the hardship is not self-created.

Regarding the setback variance, the board determined the following:

- there should be no undesirable change in the neighborhood as the requested setback is similar to setbacks of existing buildings,
- there does not appear to be a reasonable alternative,
- the request is not substantial, given the character of the neighborhood, and that there should be no adverse effect in the area, and
- that the hardship does not appear self-created, as this building is being fit into a built out downtown and on a unique parcel.

Regarding the loading space, the board determined the following:

- the reasonable alternative is being offered, which is to offer the loading space on the street;
- there should be an improvement in the area by clearly marking a formal loading space;
- the request is substantial, but it is mitigated by offering a loading space on street;
- there should be no adverse physical or environmental conditions; and
- the alleged hardship is not self-created given the parcel size and shape.

Regarding lot coverage, the board determined the following:

- there is not a significant undesirable change given the existing lot coverage of 96%,
- this could be mitigated with additional trees, but that is infeasible,
- the character of the neighborhood is unaffected, given the current conditions, and
- the request is not substantial given other buildings downtown.

Motion to approve the requested variances for 15 bicycle parking spaces where 60 are required, for 0 loading spaces where 1 is required, for a 3' rear setback where 20' is required, and for 92.8% lot coverage for the proposed parking structure and 95.3% lot coverage for the proposed mixed-use building.

Moved by Pelella, seconded by Cahill

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

36 Leroy St (2018-03)

Josh Bishop and Luis Carillo appeared to provide information on an application for a Use Variance to allow the establishment of a 3,310ft² Full-Service Restaurant in an existing non-residential building where such a use is not permitted, a parking variance to allow the provision of 0 parking spaces where 12 are required, and a sign variance to allow 66 square feet of signage where no signage is permitted within the in the R-2 One- and Two-Unit Dwelling District.

The chairman then opened the public hearing. Mark Liscia, Nathan Weinberg, and Dawn Adams spoke in favor of the proposal. Amy Shapiro spoke regarding the parking variance. The public hearing was then closed.

Motion to close the public hearing

Moved by Donovan, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

Motion that the ZBA is the lead agency in SEQR review and that the action is Unlisted

Moved by Donovan, seconded by Cahill

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

Motion issue a negative declaration under SEQR

Moved by Donovan, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

The board then moved onto deliberations.

Regarding the use variance, the board determined the following:

- the lack of return is substantial given the financial documentation submitted,
- the hardship is unique given that the building appears to have always been commercial and was never used as a residence,
- there should be no negative impact on the neighborhood, and
- the hardship is not self-created; the building was originally constructed in the early 1900s as a corner store.

Regarding the sign variance, the board determined the following:

- There was a discussion of lighting in the area and the proposed gooseneck down lighting was appreciated, which should fit in with neighborhood character;
- there does not appear to be a reasonable alternative in order to meet the business' needs;
- the request is substantial given that no signage is permitted, however the proposed use requires signage;
- the proposed project as a whole should have a positive impact in the area; and
- the hardship is self-created, however the proposed signage is tasteful and sympathetic to neighborhood character.

Regarding the parking variance, the board determined the following:

- there was never any parking on site and there is on-street parking in the neighborhood,
- the provision of bicycle parking lessens the substantiality and offers a reasonable alternative,
- there should not be an adverse impact, other than an increase to on street parking, and
- the hardship was not self-created due to the parcel never having parking associated with it.

Motion to approve the requested use variance to allow the establishment of full-service restaurant including the addition

Moved by Pelella, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

Motion to approve the requested use variance to allow 0 parking where 12 are required and for 66 square feet of signage where none is required, with one bike rack with at least 5 bicycles.

Moved by Pelella, seconded by Cahill

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella
Nays: None

285.5 – 291 Clinton St (2018-02)

Rob Warholic and Richard Boyle (Delta Engineers), representing the applicant Rogers Service Group, appeared to provide information on an application for an area variance for a 3.5 foot side setback where 10 feet is required, expansion of a nonconforming use associated with an existing Wholesale Trade and Storage business, and a use variance to allow Light Industrial use in the C-4 Neighborhood Commercial District where such uses are not permitted
The chairman then opened the public hearing. No one spoke in favor of or in opposition to the proposal. The public hearing was then closed.

Motion to close the public hearing

Moved by Donovan, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

The board, staff, and the applicant's team discussed the necessity of having an easement with the railroad company in order to proceed. The applicant explained the phasing of the project and the overall goal of the project. The ZBA requested additional financial evidence, due to the application currently showing a positive return on the property.

Motion to table review to the April 2nd meeting

Moved by Donovan, seconded by Cahill

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

ADJOURNMENT

Motion to adjourn.

Moved by Pelella, seconded by Landers

Motion carried (4-0-0)

Ayes: Cahill, Donovan, Landers, Pelella

Nays: None

Meeting adjourned at 7:15 PM