



Department of Planning, Housing, & Community Development

Mayor, Richard C. David
Director, Dr. Juliet Berling

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
MEETING DATE: June 4, 2018	LOCATION: City Council Chambers, City Hall
CALLED TO ORDER: 5:15PM	RECORDER OF MINUTES: Tim Konetchy, Planner

ROLL CALL		
ZONING BOARD OF APPEALS MEMBERS:	PRESENT	ABSENT
J. Kelly Donovan (chair)	X	
Ernest Landers (vice-chair)	X	
David Cahill	X	
Palmer Pelella	X	
VACANT	-	-
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Dr. Juliet Berling	Director of PHCD	
Tito Martinez	Assistant Director of PHCD	
Tim Konetchy	Planner, PHCD	
Sean McGee	Historic Preservation and Neighborhood Planner, PHCD	
Nathan O'Neil	Assistant Counsel, Corporation Counsel	
Sharon Sorkin	Assistant Corporation Counsel	

APPROVAL OF MINUTES		
MOTION to approve the May 7, 2018 meeting minutes as written.		
FIRST: Cahill	SECOND: Landers	VOTE: Carried (3-0-1)
AYE(S): Cahill, Donovan, Landers,	NAY(S):	ABSTENTION(S): Pelella

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 438 Chenango St	CASE NUMBER: ZBA-2018-06
APPLICATION FOR: Area variance to allow 17.3 square feet of signage where none is permitted, to permit an Electronic Message Center (EMC) sign in the R-3 Multi-Unit Residential District where such signs are not permitted, and to allow an EMC sign within 0' of residential district where such signs are prohibited within 200' of a residential district.	
APPLICANT: 3i Graphics	
REPRESENTATIVE(S): Nick Taro (3i Graphics), & Joyce Reed	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ The applicant submitted a letter regarding changes to the sign face, the usage, hours-of-operation (7AM-10PM) ▪ Corporation Counsel Sorkin discussed the alternative of a static LED sign. The applicant stated that it is an option and opted to verbally amend their application to change to a static LED from an EMC. ▪ The ZBA then moved on to the next application, in order to allow the applicant and their contractor to discuss their options and to return with their exact proposal. 	
ADDRESS: 255 Washington St	CASE NUMBER: ZBA-2018-07
APPLICATION FOR:	

Area variance to allow a static LED sign that is 31.25% of the sign area where 15% is the maximum permitted. This property is located in the C-2 Downtown Business District.		
APPLICANT: Binghamton First Assembly		
REPRESENTATIVE(S): Eric Olsen (3i Graphics) & Mark Anderson		
DISCUSSION POINTS:		
<ul style="list-style-type: none"> ▪ The board discussed the 239 comments with the applicant. ▪ The board discussed the hours-of-operation; the applicant requested 11 or 12 as the turnoff hour 		
PUBLIC COMMENT:		
<ul style="list-style-type: none"> ▪ No one speaking in favor of or in opposition to the application. ▪ No letters were received. 		
VOTING		
MOTION that the ZBA is lead agency in SEQR review		
FIRST: Donovan	SECOND: Landers	VOTE: Carried unanimously (4-0-0)
MOTION that the action is Type I under SEQR, per 6 CRR-NY 617.5(B)9		
FIRST: Donovan	SECOND: Cahill	VOTE: Carried unanimously (4-0-0)
MOTION to issue a negative declaration under SEQR, based on a finding of no or small impact on all aspects of the Type I checklist. Any effect on the historic district/ properties is mitigated by CAUD review.		
FIRST: Donovan	SECOND: Landers	VOTE: Carried unanimously (4-0-0)
DELIBERATION:		
<ol style="list-style-type: none"> 1. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because the proposed sign is in character with the neighborhood and should be beneficial to the applicant and the area. 2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative that would adequately satisfy the benefit sought by the applicant. The Zoning Board of Appeals identified a changeable copy sign as an alternative, but noted that it was not reasonable to require such. 3. The Zoning Board of Appeals determined that the requested variance was substantial in nature, but that as weighed against the other factors this did not preclude the granting of the variance. 4. The Zoning Board of Appeals determined that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 5. The Zoning Board of Appeals determined that the alleged hardship was not] self-created because the board discerned that the request is as minimal as possible in order to satisfy their desired outcome. 		
MOTION to approve the requested variance, subject to the following conditions:		
<ul style="list-style-type: none"> ▪ The hours-of-operation shall be limited to 6AM-11PM ▪ The landscape area shall be enclosed with curbing 		
FIRST: Pelella	SECOND: Landers	VOTE: Carried unanimously (4-0-0)
ADDRESS: 22 Lamont St	CASE NUMBER: ZBA-2018-08	
APPLICATION FOR:		
Area variance to allow an 8' high fence where 6' is the maximum height permitted. This property is located in the R-1 Single Unit Dwelling District.		
APPLICANT: Stephen Walley		
REPRESENTATIVE(S): John Cooke (subcontractor for Lowes) and Stephen Walley		
DISCUSSION POINTS:		
<ul style="list-style-type: none"> • On April 23-24 Cooke installed the fencing. Walley requested the 8' fence for privacy reasons. • Corporation Counsel Sorkin asked about reasonable alternatives. The applicant has privacy and health issues, which made him choose a higher fence than permitted. 		
PUBLIC COMMENT:		
<ul style="list-style-type: none"> ▪ James Walley speaking in favor of the application. ▪ Jack and Julie Miller speaking in opposition to the application. ▪ No letters were received. 		
VOTING		

DELIBERATION:		
1. The request has caused an <u>undesirable change</u> . The photographs from the staff report show a towering fence. The neighbor's comments regarding the blocking of windows, light, and general aesthetics cause issue.		
2. A <u>reasonable alternative</u> of a 6' high fence is a legal alternative. Additionally, lattice or some other transparent fencing may be an option for the top two feet of the fence, which could allow some light to pass through.		
3. The board felt that the request is <u>substantial</u> .		
4. The board determined that there is minimal <u>adverse effect on physical/ environmental factors</u> .		
5. The alleged hardship is <u>self-created</u> .		
MOTION to approve the requested variance, subject to the following conditions:		
<ul style="list-style-type: none"> The fence panels be moved to the neighbor side 		
FIRST: Cahill	SECOND: Donovan	VOTE: Failed (2-2-0)
AYE(S): Cahill, Donovan	NAY(S): Landers, Pelella	ABSTENTION(S):
The application was therefore denied. The board discussed compliance and alternatives to the denied application.		
ADDRESS: 438 Chenango St		CASE NUMBER: ZBA-2018-06
<i>The ZBA then returned to review of 438 Chenango St</i>		
COMMENTS:		
<ul style="list-style-type: none"> The application was amended to the following variances: (1) for a static LED and (2) for 14 square feet of static LED, approximately 40%, of the sign face where 15% is permitted. The total square footage of the sign is 34 SF and 14 SF of LED is requested The overall square footage of the sign is reduced. 		
VOTING		
MOTION that the ZBA is lead agency in SEQR review and that the action is unlisted		
FIRST: Donovan	SECOND: Landers	VOTE: Carried unanimously (4-0-0)
MOTION to issue a negative declaration under SEQR		
FIRST: Donovan	SECOND: Cahill	VOTE: Carried unanimously (4-0-0)
DELIBERATION:		
1. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because the proposed sign is in character with the neighborhood and should be beneficial to the applicant and the area.		
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, that the proposed sign appears to be <u>the</u> reasonable alternative that would adequately satisfy the benefit sought by the applicant. The Zoning Board of Appeals noted the higher cost of other options as a mitigating factor.		
3. The Zoning Board of Appeals determined that the requested variance was substantial in nature because signs are not permitted in the zoning district, but that as weighed against the other factors this did not preclude the granting of the variance.		
4. The Zoning Board of Appeals determined that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.		
5. The Zoning Board of Appeals determined that the alleged hardship was not self-created because the board discerned that the request is as minimal as possible in order to satisfy their desired outcome.		
MOTION to approve the requested variance, for 14 SF of static LED sign, and to allow the LED to be subject to the following conditions:		
<ul style="list-style-type: none"> Prior to the issuance of a sign permit, the applicant shall submit an updated proof of the proposed sign. The hours-of-operation shall be limited from 7AM-10PM 		
FIRST: Landers	SECOND: Cahill	VOTE: Carried unanimously (4-0-0)
ADJOURNMENT		
MOTION to adjourn		TIME: 7:15PM
FIRST: Cahill	SECOND: Landers	VOTE: Carried unanimously (4-0-0)

