




Department of Planning, Housing, & Community Development

Staff Report for the Zoning Board of Appeals

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

PROPERTY ADDRESS & TAX ID	APPLICANT	CASE NUMBER	PUBLIC HEARING DATE
255 Washington St 160.33-1-12	Binghamton First Assembly	ZBA-2018-07	June 4, 2018

SUMMARY OF REQUEST	LOCATION OF PROPERTY											
<p>The applicant, Binghamton First Assembly, has requested variance relief in order to allow a static LED feature within a proposed freestanding sign.</p> <p>Static LED signs are permitted when integrated into freestanding signs, however only 15% of the sign area may be static LED.</p> <p>The City of Binghamton Zoning Ordinance, under the general standards for sign illumination, sets the following standard:</p> <p>§410-62-F.6. Static LED Display Standards. Static LED displays may be used in conjunction with a freestanding sign, provided it does not occupy more than 15% of the freestanding sign's area.</p> <p>A static LED display may not change more than once per 60 seconds</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%;">Permitted</th> <th style="width: 15%;">Requested</th> <th style="width: 55%;">Section</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">% of sign area</td> <td style="text-align: center;">15%</td> <td style="text-align: center;">31.25%</td> <td rowspan="2" style="text-align: center;">410-62-F.6</td> </tr> <tr> <td></td> <td style="text-align: center;">(6 SF)</td> <td style="text-align: center;">(12.5 SF)</td> </tr> </tbody> </table>		Permitted	Requested	Section	% of sign area	15%	31.25%	410-62-F.6		(6 SF)	(12.5 SF)	 <p style="text-align: right; font-size: small;">SOURCE: GOOGLE</p>
	Permitted	Requested	Section									
% of sign area	15%	31.25%	410-62-F.6									
	(6 SF)	(12.5 SF)										

ZONING DISTRICT & EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	PARCEL INFO.
C-2 Downtown Business District Community Services, 620 Place of worship	C-2 Downtown Business District. Nearby café, automobile repair shop, multi-unit residences, and the Forum theatre.	41,730 sq. ft. Three-stories Local landmark: "Kalurah Temple" Constructed: 1916 Architect: Arthur T. Lacy	0.49 Acres 93' x 213' Rectangular through-lot. Frontage on Water, E. Clinton, & Washington St

STAFF COMMENTS/FINDINGS
<ul style="list-style-type: none"> • <i>If the ZBA chooses to grant the requested <u>or</u> a lesser variance, the ZBA should attach the following conditions:</i> <ul style="list-style-type: none"> -Limit hours-of-operation to have the sign be shut-off from 10PM until 6/7/8AM (discuss with applicant) -Enclosure of the landscape area with curbing or masonry. • It is apparent that vehicles have been driving over the landscape island that is the location of the proposed sign. Curbing, masonry or some other deterrent is recommended to protect the sign. <p><u>Undesirable Change:</u></p> <ul style="list-style-type: none"> • The design standard to permit 15% of a sign face to be LED was presumably chosen to limit the amount of lighting and changing text on such signs. By increasing the area of LED, this sign comes closer to EMC signs, which are neither permitted within the C-2 District nor within 200' of a historic structures (255 Washington St is a local landmark). The ZBA should carefully consider if the increased area of the proposed static LED will change the <u>nature</u> of the sign (thereby making it closer to an EMC). <p><u>Reasonable Alternative:</u></p> <ul style="list-style-type: none"> • The applicant could reasonably consider lesser alternatives, such as lowering the requested area of static LED.

- The ZBA may consider offering approval of a lesser percentage of the sign area. For example, 25% would permit 10 SF of LED. The size of the LED panels may be an inhibiting factor in this.

Substantial Request:

- The request is somewhat substantial. The applicant is requesting 12.5 sq. ft. of static LED where 6 sq. ft. is permitted.

Adverse Impact:

- The proposed sign is large, standing almost 8 feet high. The size of the sign may increase the potential for vehicle-vehicle or vehicle-pedestrian incidents due to limited visibility. The addition of lighting could increase the potential for such incidents.

Self-created Hardship

- The alleged hardship is self-created. There are several options for allowable signs within the C-2 Downtown Business district and the option to provide 15% of sign area would allow for 6SF of LED. Furthermore, the submitted quote for the cost of the sign shows that this is a significant investment that the applicant is pursuing.

AREA VARIANCE CRITERIA

[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

[3] Whether the requested area variance is substantial.

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

RELEVANT SECTIONS FROM THE ZONING ORDINANCE

§410-61. Definitions

Static LED Display. A single-color light emitting diode (LED) display used for limited, infrequently changing sign content (including, but not limited to: time and temperature displays, fuel prices, and similar) which is incorporated into a freestanding sign as a subservient, accessory feature. The **displayed content shall not move, scroll, flash, or in any other way simulate** motion. This type of display shall be distinct from EMC signs.

§410-62-F.6.

Static LED Display Standards. **Static LED displays may be used in conjunction with a freestanding sign, provided it does not occupy more than 15% of the freestanding sign's area.** A static LED display may not change more than once per 60 seconds

RELEVANT/ RECENT ZBA ACTIVITY	ADDITIONAL REVIEW REQUIRED
<ul style="list-style-type: none"> <u>42 Chenango St</u> in 2017, the ZBA denied an area variance to permit an EMC within the C-2 Downtown Business district and within 200' of a historic district where such signs are not permitted. <u>107 Chenango St:</u> in 2015, the ZBA approved various area variances to permit larger projecting and canopy/marquee signs than were permitted. 	<ul style="list-style-type: none"> The proposed project is within 500' of a County Facility and requires 239 (L,M, & N) review by the Broome County Planning Department. The proposed project requires review by the Commission on Architecture and Urban Design (CAUD). The property is a local landmark. → CAUD has generally approved of the monument sign, however the ZBA must approve/deny the LED portion of the sign.

ATTACHMENTS	SEQR EAF PT. 2		PHOTOGRAPHS		
RELATED DOCUMENTS	APPLICATION	SEQR EAF PT. 1	SUBMITTED PLANS	239 COMMENT	PUBLIC COMMENT

SEQR EAF Part 2 - Impact Assessment. The <u>Lead Agency</u> is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available. When answering the questions the reviewer should be guided by the concept "Have our responses been reasonable considering the scale and context of the proposed action?"		
TYPE OF ACTION Type I: <u>617.5(B) 9</u>	<i>The ZBA should make a motion to (1) declare intent to act as lead agency, and to (2) define the type of action under SEQR. The Chairman should then open the public hearing or set the date for the public hearing on the case.</i>	
LEAD AGENCY Zoning Board of Appeals Or, motion to defer lead agency to the Planning Commission		
	NO OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
Will the proposed action involve construction on, or physical alteration of, the land surface of the proposed site?	✓	
Will the proposed action result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves)?	✓	
Will the proposed action affect one or more wetlands or other surface waterbodies (e.g., streams, rivers, ponds or lakes)?	✓	
Will the proposed action result in new or additional use of ground water, or have the potential to introduce contaminants to ground water or an aquifer?	✓	
Will the proposed action result in development on lands subject to flooding?	✓	
Will the proposed action include a state regulated air emission source?	✓	
Will the proposed action result in a loss of flora or fauna?	✓	
Will the proposed action impact agricultural resources?	✓	
Will the proposed action be obviously different from, or in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource?		
Will the proposed action occur in or adjacent to a historic or archaeological resource?		
Will the proposed action result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan?	✓	
Will the proposed action result in a change to existing transportation systems?	✓	
Will the proposed action cause an increase in the use of any form of energy?	✓	
Will the proposed action result in an increase in noise, odors, or outdoor lighting?		
Will the proposed action have an impact on human health from exposure to new or existing sources of contaminants?	✓	
Is the proposed action consistent with adopted land use plans?		
Is the proposed action consistent with existing neighborhood character?		
SEQR EAF Part 3 - Determination of significance. For every question in Part 2 that answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.		
BASED ON THE ABOVE, MOTION:	Negative Declaration	Positive Declaration

PHOTOGRAPHS



1 Facade of 255 Washington St. Location of proposed sign within the landscape island



2 View of Binghamton First Assembly from the south



3 View of the proposed sign location looking north from the sidewalk



4 View of the proposed sign location looking south from the sidewalk



5 Location of the proposed sign. Vehicles have been driving over this area. (See staff comments)