



# City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
<b>MEETING DATE:</b> November 14, 2023	<b>LOCATION:</b> City Council Chambers, City Hall
<b>CALLED TO ORDER:</b> 5:15PM	<b>RECORDER OF MINUTES:</b> Shalin Patel

ROLL CALL		
ZONING BOARD OF APPEALS MEMBERS:	PRESENT	ABSENT
J. Kelly Donovan (Chair)	X	
Susan Bucci	X	
John Matzo (Vice-chair)	X	
Ernest Landers	X	
Marina Resciniti	X	
<b>STAFF MEMBERS PRESENT:</b>	<b>TITLE &amp; DEPARTMENT:</b>	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Greg Buell	Zoning Officer, Planning Department	
Elisabeth Rossow	Corporation Counsel	

APPROVAL OF MINUTES		
<b>MOTION</b> to approve the July 18, 2023 meeting minutes as written.		
<b>FIRST:</b> Matzo	<b>SECOND:</b> Bucci	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Bucci, Donovan, Matzo, Resciniti, Landers	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

PUBLIC HEARINGS & FINAL DELIBERATIONS	
<b>ADDRESS:</b> 10 Brookfield Rd	<b>CASE NUMBER:</b> ZBA-2023-174
<b>APPLICATION FOR:</b> Area Variance to pave a 1,410sf parking area in rear yard resulting in approximately 51% lot coverage where the maximum is 40% in the R-1 Residential Single Unit Dwelling District	
<b>REPRESENTATIVE(S):</b> Kiet Vy	
<b>DISCUSSION POINTS:</b>	
<ul style="list-style-type: none"> <li>▪ Work had already begun on the project, before applicant came in contact with the Planning Department and the Zoning Board</li> <li>▪ Household consists of 3 vehicles - applicant states the space will only be used for parking</li> <li>▪ Applicant is seeking to pave approximately 10% more of the backyard than he is allowed to</li> <li>▪ Initial inspection of the house before purchase revealed a negative slope grading, the backyard is little bit higher in slope than the house, sometimes there are puddles in the backyard</li> <li>▪ Applicant claims approximately 425 square ft of area that is available to him would not be enough space for him and his household to park their vehicles</li> <li>▪ A brick patio and a deck in the rear of the house were removed pre-application</li> </ul>	

- Minimal parking dimension (standard) 8.5-9' wide by 18-24' long (derived from the internet) – assuming for 3 cars, the minimum lot should be 24'x27'= 648'.
- 9' x 18' is the standard parking space dimension per City of Binghamton Zoning Code
- Paved areas that are walkways, patios, and things of the similar nature do not count for the overall lot coverage (**Staff Martinez**).
- **Chair (Donovan) asked** the applicant if he has any plans to use the garage that sits on the property?
  - **Applicant (Vy) replies**, at the moment the garage will not be used for anything, if anything would use it to place a small wood shop in there for hobbies
- **Commissioner (Resciniti) asked** the applicant on the length of ownership of the house. If his parents drive and if he can currently fit all 3 household vehicles in the driveway? Following up, why do you need a parking lot in the back with a long driveway on the side?
  - **Applicant (Vy) replied**, he purchased the property in later August of this year. His elderly parents still work and drive. Does not think he can fit all 3 vehicles in the driveway and has not previously tried to park them all in a line. The driveway is really narrow, it is hard to manure and reverse the cars out.
- **Commissioner (Bucci) asked staff (Martinez)** about any pending zoning violations on the property in question.
  - **Staff (Martinez) replied**, there are no formal citations on the property, but the Zoning Officer did visit the house and noticed the work in the rear yard had started, hence why the applicant had to show up before the ZBA.
- **Commissioner (Bucci) further asked** the applicant about the approximate length of the driveway. And if the applicant has any intention of parking anything (boat, RV, etc.) other than vehicles (cars) on the parking lot?
  - **Applicant (Ky) replied**, it should be approximately 9' (w) x 100' (l). Only cars will be parked on the parking lot, no intention to park any other vehicles. It is harder to move vehicles one by one for each person that wants to leave (for ex, 1<sup>st</sup> person closest to the garage wants to leave, then you have to move 2 cars out of the driveway for 1 car to leave).
- **Chair (Donovan) commented**, the applicant should consider an alternate plan of stacking car in front of the garage, and it would reduce the number of required square footage for the parking lot pad.
- Applicant commented, parking on street is usually available and they have no trouble finding parking close by.
- **Commissioner (Bucci) asked the staff** if the proposed parking area 5' from the fence?
  - **Staff (Martinez) replied** that rule about spacing is for parking areas with more than 4 cars, typically for commercial or multi-unit
- **Commissioner (Matzo) asked** the applicant if he is willing to put up a fence to block the headlights of the vehicles from entering into the neighbor's backyard when coming in and leaving the rear parking lot.
  - Applicant agreed to put up a fence if the approval was granted

**PUBLIC COMMENT:**

- **Christina Smith (neighbor at 6 Brookfield Rd) spoke in opposition of the project.** Ms. Smith had following to say about the project: the cars coming in the rear proposed parking will have to come at a right angle, meaning their headlights will be displaying directly at her house. The cars will have to backup into the fence right near her house in order to go forward and attempt to leave via the driveway. The fence that lies between two properties is a very old 4' high page link fence. There is

just the noise of cars coming and going, car doors, the exhaust, the snow removal problem in the winter – states loss of privacy as an overarching main concern. The variance should not be allowed if the integrity of the neighborhood is to be preserved. Mentions values of both properties will go down as a result of this variance. Ms. Smith also wrote a letter in opposition.

- **An email was received in opposition from Michael and Lia McGinnis (neighbors at 12 Overbrook Ave).** The McGinnis wrote the following in the email for the project: we walk past this property at least twice a day with our kids during the school year to and from McArthur. Have some concerns not so much with the parking, but what the owner will be doing utilizing all of the parking. Our concern is that the house will be used for something other than a primary living residence for a single person or a family. The house is located near a school and in a family neighborhood, we would not want the house to be treated as a rental unit. During school year there is already a high volume of traffic on this block on Brookfield Rd, adding to this would not be ideal. Based on public information, the owner is in the healthcare profession, we are concerned that the plan for the house is to board traveling nurses, for in town for a couple of days/nights in week. It is a concern to have a people constantly go in and out of the house.

**VOTING**

**MOTION to OPEN the public hearing**

<b>FIRST:</b> Donovan	<b>SECOND:</b> Bucci	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Donovan, Bucci, Landers, Resciniti, Matzo	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

**MOTION to CLOSE the public hearing**

<b>FIRST:</b> Donovan	<b>SECOND:</b> Matzo	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Donovan, Bucci, Landers, Resciniti, Matzo	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

**DELIBERATION:**

*-FOR AREA VARIANCES-*

1. The Zoning Board of Appeals determined that the granting of the variance would result in an undesirable change in the neighborhood because there is plenty of parking availability on the street. Also, given the nature of the neighborhood, a big parking lot in the rear yard does not fit the character of the neighborhood.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is a reasonable alternative. One car could be stacked in front of the garage, while two other cars would be parked in the allowable parking area, which would reduce the required lot coverage from 51% to what is allowed in the R-1 Single Unit Dwelling District.
3. The Zoning Board of Appeals determined that the requested variance was substantial based on a picture (detailing the under-construction portion) from the staff report, it looks like the proposed project would encapsulate majority of the back yard.
4. The Zoning Board of Appeals determined that the proposed variance will 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 self-created because although there was a good intent there to improve parking and be a good use to current owners, but it will go forward and be grandfathered in for the next owner should it be approved.

**MOTION to DENY the requested variance**

<b>FIRST:</b> Matzo	<b>SECOND:</b> Bucci	<b>VOTE:</b> Carried (5-0-0)
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<b>AYE(S):</b> Matzo, Bucci, Donovan, Landers, Resciniti	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>
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<b>ADJOURNMENT</b>
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<b>MOTION</b> to adjourn		<b>TIME:</b> 6:03 PM
<b>FIRST:</b> Donovan	<b>SECOND:</b> Matzo	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Matzo, Bucci, Donovan, Landers, Resciniti	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>