



City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
MEETING DATE: June 11, 2024	LOCATION: City Council Chambers, City Hall
CALLED TO ORDER: 5:15PM	RECORDER OF MINUTES: 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
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Greg Buell	Zoning Officer, Planning Department	
Elisabeth Rossow	Corporation Counsel	

APPROVAL OF MINUTES		
MOTION to approve the May 14, 2024 meeting minutes as written.		
FIRST: Matzo	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Bucci, Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S):

PUBLIC HEARING & FINAL DELIBERATIONS	
ADDRESS: 181, 185, 187 & 205 Clinton St; 2 & 7 Hudson St; 9 Slauson Ave	CASE NUMBER: ZBA-2024-83
APPLICATION FOR: Area Variances for the construction of a 60' tall building where 45' is the maximum and 0' of commercial space along a portion of the ground floor where 30' are required along all street frontages	
REPRESENTATIVE(S): Robert McKertich (Attorney, Coughlin & Gerhart LLP), Steven Sanyshyn (Project Engineer, Delta Engineers), Dustin Welch (Project Architect, Passero Architects and Engineers)	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ The Planning Commission made a motion for a negative declaration for a SEQR review and the project was approved at the June 4th meeting. ▪ No new changes 	
PUBLIC COMMENT:	
<ul style="list-style-type: none"> ▪ 1 letter received from Patricia Garraway. Ms. Garraway wrote the following: "Where is the designated parking? Is it convenient? What types of businesses are allowed to lease? The senior home on Clinton St, has commercial on ground level as well but getting businesses to move in has 	

been difficult (still an advertisement for lease space available). The sidewalks on Slauson Ave and Crandall St are unsafe and not present. Will the city or the developer be absorbing the cost to bring sidewalks up to pedestrian safety and code? Binghamton Code enforcement is already strained by lack of staff. Will any new concerns that may arise in the area be addressed? Will the empty lots with overgrown weeds and shrubs (mostly owned by the city) be addressed on Clinton Street and side streets now that Binghamton will revitalize the area? As per the mayor's office, lots that are overgrown and otherwise a code violation is being "returned to the wild".

- **Darwish926@aol.com sent an email about the project (did not leave a name).** Train traffic and trucks are affecting the settlement of the houses and foundation in the area already; worried about pedestrians going over the train tracks, which will increase drastically with completion of this project. Worried about crime and property damage that already occurs (allegedly) around the train tracks increasing. Putting up a 10' fence along the train tracks may help stop people from going over and may also help with the crime issues. Concerned about traffic and parking and to note that Crandall St does not have alternate parking in the winter and is one of the last streets to get plowed, so additional traffic in the area may make these issues worse.
- **Roseanne Simpson (resident at 33 Gregory Lane) had questions/concerns about the project.** Ms. Simpson asked the following: what type of housing is this going to be - low-income, senior citizens, college kids? When you have an apartment building with that many people, you get a problem with crime, even with a manager on site, they will not be able to manage that problem for such a big housing complex. How far will the building be set back?

APPLICANT RESPONSE TO THE PUBLIC COMMENT:

- **Robert McKertich (Attorney) commented,** parking for commercial businesses along Clinton St, there is parking along the street for people to visit the commercial establishments and there will be a parking lot included for the retail businesses; it is a separate lot specifically for businesses. There is public transportation located directly in front of the buildings on Clinton St. For type of businesses, there is an anticipation of small retail establishments such as a deli, convenience store, restaurant, etc., there are no limits on the type of businesses that could occupy the space, but it will be your typical downtown retail businesses. This property will have a full-time property manager on staff in an office and the city's Planning and Code Enforcement departments will have direct contact with the person for any issues/problems that may arise. The applicant is going to improve the area by remedying the empty lots with weeds and shrubs, with the buildings and amenities. The sidewalks are city property, the applicant does not have any plans on re-construction of the said sidewalks on Crandall St and Slauson Ave.
- When a piece of land is unimproved, uncared for, it tends to attract illicit activity. What the applicant is proposing will have the opposite effect, will have an improved property with lighting, fencing to prevent people from crossing railroad tracks, manager on site to properly manage the property, people will be living here, etc. This project was specifically designed to attract traffic to the site, there are multiple means of ingress/egress from different side streets. Been in talks with the fire department and they are comfortable with the adequate ingress/egress into the site (**McKertich's response to the email**).
- This project was designed for people living and working in the city of Binghamton. It will not be another student housing complex, it is designed to be housing for the workforce (Teachers, EMTs, fire fighters, police officers, office workers, members of the community, etc.), though there will be some income limitations tied to the AMI (income level of the residents have to be within certain

percentage of AMI). This will not be a section 8 housing in respect, will just be restricting the income of the people living there. In terms of the setback, the building will be located 10' behind the sidewalk (**McKertich**).

VOTING

MOTION to recognize Planning Commission as the lead agency for SEQR Review and completion of negative declaration by Planning Commission

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (4-0-0)
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AYE(S): Donovan, Matzo, Landers, Bucci	NAY(S):	ABSTENTION(S):
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DELIBERATION:

AREA VARIANCE FOR HEIGHT

1. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood. It is 15' higher than what is allowed in the Zoning district, but there are several buildings (22 Charles St, 15 Charles St, a number of churches as noted in the staff report) in the close proximity that are above the 45' maximum height limit.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. Based on information provided by the applicant, the height was necessary to achieve the desired unit count, which affected the viability of the project getting grant funding.
3. The Zoning Board of Appeals determined that the requested variance was not substantial, because there are a number of other structures in the area that are above 45' in height.
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 self-created, but that did not preclude the granting of the variance.

AREA VARIANCE FOR 0' COMMERCIAL SPACE

1. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change because not granting the variance would result in the loss of 12 dwelling units, where there is a citywide shortage of housing. The access to these units will not be from the outside for safety considerations, it will be a secured entrance from the inside.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. Not allowing the variance would alter the economics of pre-designed set of units, in this case losing 12 units. The units on the ground floor will not be facing Clinton St which is the principal commercial corridor; they will be facing the side streets of Jarvis and Hudson.
3. The Zoning Board of Appeals determined that the requested variance was not substantial because the units will not be located facing a major roadway that is Clinton St, rather they will be located along side streets of Jarvis and Hudson.
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 self-created, but that did not preclude the granting of the variance.

MOTION to approve the requested variance(s).

FIRST: Matzo	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Donovan, Matzo, Landers, Bucci	NAY(S):	ABSTENTION(S):

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 225 Chenango St	CASE NUMBER: ZBA-2024-96
APPLICATION FOR: Use Variance to allow the establishment of an Industrial Cannabis Business in an existing industrial building in the C-6 Limited Neighborhood Commercial District	
REPRESENTATIVE(S): Eric Rundels	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ Pending application with the Office of Cannabis Management (OCM), use of commercial building to cultivate cannabis under the smallest tier of licenses allowed by NY State. ▪ Applicant would like to use 3000-3600 square feet of the space in the building to perform indoor cultivation ▪ Cannabis will be cultivated through regenerative farming, low impact, reuse of water, pesticides will not be used – the process has to be in accordance with NY State guidelines. Water will not be polluted; the runoff will not be going into the drains. ▪ Methods such as spray foaming and air filtration systems will help scrub the air in the room where the flowers are being grown and areas outside, which will prevent the smell from escaping outside of the facility, to the public. ▪ There will be installation of cameras (inside and outside the building) in accordance with the state. ▪ Board member (Bucci) asked about delivering of Cannabis product; there will be no sale but what is being delivered? <ul style="list-style-type: none"> - Applicant (Rundels) replied, we will be taking the finished product out of the facility and delivering. There will not be anyone coming to the location to purchase the product directly from the facility. The process in NY State is, the dispensaries place an order, then it gets fulfilled by cultivator(s). - The applicant will be working to deliver product to 2 dispensaries in Broome County ▪ Board member (Bucci) asked if there were any other facilities of such nature in City of Binghamton. <ul style="list-style-type: none"> - Staff member (Martinez) commented, there are no licensed cannabis growing facilities in Binghamton right now, only retail locations. ▪ Board member (Matzo) asked if there was an inspection on the quality of the cannabis as it is produced at the facility and moves to the dispensaries? <ul style="list-style-type: none"> - Applicant (Rundels) replied, OCM has inspectors that will pay visits to cultivators; people will inspect your facility for safety, air quality in trim rooms, to type of light being used, size of the canopy (diameter of the plant in accordance with the guidelines). ▪ Board member (Bucci) asked if the applicant owned the building and if they know of any outstanding code violations currently placed on the building? <ul style="list-style-type: none"> - Applicant (Rundels) replied with yes. And the applicant is no aware of any violations. - Staff member (Martinez) commented, the last legal use of the property was an industrial warehouse. There are no open violations in present time, last violation was regarding garbage in 2022. ▪ OCM has very strict limitations on signage (Martinez). A grower would not be able to put up signage that shows the property has anything to do with cannabis. 	

PUBLIC COMMENT:		
<ul style="list-style-type: none"> ▪ No one spoke in favor nor in opposition of the project ▪ No letters received. 		
VOTING		
MOTION to OPEN the public hearing		
FIRST: Donovan	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Donovan, Bucci, Landers, Matzo	NAY(S):	ABSTENTION(S):
MOTION to CLOSE the public hearing		
FIRST: Donovan	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Donovan, Bucci, Landers, Matzo	NAY(S):	ABSTENTION(S):
DELIBERATION:		
<ol style="list-style-type: none"> 1. The Zoning Board of Appeals concluded that under applicable zoning regulations, the applicant would be deprived of economic use or benefit from the property in question. The most recent use of the property as a warehouse was clearly not profitable due to the long-term vacancy of the site and the relatively low recent sales price. The board was satisfied that exploring a use beyond what is currently allowed for this building is reasonable. 2. The Zoning Board of Appeals determined that the alleged hardship for the property was unique. The proposed use appears to be appropriate for the size of the building, and the building was originally constructed as an industrial building (most recently a warehouse), whereas most other buildings in the district are not industrial. 3. The Zoning Board of Appeals determined that granting the variance would not alter the essential character or quality of the neighborhood, endanger public health or safety, and would not substantially diminish or impair property values in the neighborhood. The board noted that NYS and local regulations would not allow cannabis-related signage, and that the applicant had no plans for any highly-visible signage. They also noted that general façade and street front improvements would have a positive effect on the neighborhood character and quality of the district. 4. The alleged hardship was not self-created because the building is already industrial and not conforming to the neighborhood. 		
MOTION to approve the requested variance.		
FIRST: Matzo	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Matzo, Bucci, Landers, Donovan	NAY(S):	ABSTENTION(S):

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 162 Water St	CASE NUMBER: ZBA-2024-87
APPLICATION FOR: Area variance to allow 20' wide drive aisles in an existing parking lot, where 24' is the minimum in the C-2 Downtown Business District	
REPRESENTATIVE(S): Mark Yonaty (representing the applicant)	
DISCUSSION POINTS:	

- **Yonaty** believes 95% of the aisle is 24', based on how the property tapers towards the back, so a variance is requested
- The only parcel it would affect is the other building owner who has signed a document, it will not impact any other persons.
- Adding 5 more parking spaces, in order to achieve the goal, the applicant will have to remove some greenspace islands (**Yonaty**) – as you enter the parking lot off of Water St, heading east in the parking towards the back, it tapers.
- The other owner partakes in the project because there is a gain to him as well for parking (**Yonaty**).
- 239 Review: the county has not identified any significant county wide impacts associated with the project. Full report is available to be obtained from the Planning Department.

PUBLIC COMMENT:

- No one spoke in favor nor in opposition of the project.
- No letters received.

VOTING

MOTION to OPEN the public hearing

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (4-0-0)
AYE(S): Donovan, Matzo, Landers, Bucci	NAY(S):	ABSTENTION(S):

MOTION to CLOSE the public hearing

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (4-0-0)
AYE(S): Donovan, Matzo, Landers, Bucci	NAY(S):	ABSTENTION(S):

SEAF PART 2 IMPACT ASSESSMENT. The Lead Agency 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: Unlisted	LEAD AGENCY: Zoning Board of Appeals
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The Chairman 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. Following the closing of a public hearing, the Chairman should lead a discussion evaluating the following potential impacts.

	NO OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	✓	
Will the proposed action result in a change in the use or intensity of use of land?	✓	
Will the proposed action impair the character or quality of the existing community?	✓	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	✓	
Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	✓	
Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	✓	
Will the proposed action impact existing:	✓	

A. public / private water supplies? B. public / private wastewater treatment utilities?		
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	✓	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	✓	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	✓	
Will the proposed action create a hazard to environmental resources or human health?	✓	

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

MOTION to issue a negative declaration under SEQR

FIRST: Donovan	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Donovan, Landers, Bucci, Matzo	NAY(S):	ABSTENTION(S):

DELIBERATION:

-FOR AREA VARIANCES-

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 change constitutes only a 4’ reduction in parking lot aisle width, it is half of the parking lot, and it is not undesirable to nearby properties.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. In reality, if the applicant could have solved the problem by stripping parking spaces in a different manner and not having to physically move anything, they would have, which would have not required them to get a variance. But out of the number of alternatives considered, reducing the parking aisle width seemed to be the most reasonable conclusion they arrived to.
3. The Zoning Board of Appeals determined that the requested variance was not substantial because a reduction in aisle width from 24’ required to 20’ within a pre-existing parking lot does not appear to trigger a significant change and will not be undesirable to nearby properties.
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. Parking spaces will be bit tighter when parking vehicles, but the width of the space to enter/exit to and from the street will remain the same, as it stands currently.
5. The Zoning Board of Appeals determined that the alleged hardship was self-created.

MOTION to approve the requested variance

FIRST: Matzo	SECOND: Bucci	VOTE: Carried (4-0-0)
AYE(S): Matzo, Landers, Bucci, Donovan	NAY(S):	ABSTENTION(S):

ADJOURNMENT

MOTION to adjourn **TIME:** 6:15PM

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (4-0-0)
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AYE(S): Donovan, Matzo, Landers, Bucci	NAY(S):	ABSTENTION(S):
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