



City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
MEETING DATE: November 7, 2022	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	X	
Ernest Landers	X	
Marina Resciniti		X
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Dr. Juliet Berling	Director, Planning Department	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Brian Seachrist	Corporation Counsel	

APPROVAL OF MINUTES		
MOTION to approve the October 4, 2022 meeting minutes as written.		
FIRST: Matzo	SECOND: Landers	VOTE: Carried (3-0-2)
AYE(S): Matzo, Landers, Donovan	NAY(S):	ABSTENTION(S): Bucci, Resciniti

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 162, 180, 184 and 186 Henry St, 77 Pine St	CASE NUMBER: ZBA-2022-192
APPLICATION FOR: Area Variances for a 4' rear setback where 20' is the minimum, 73% lot coverage where 70% is the maximum, 55' in height where 45' is the maximum, 10 parking spaces where 79 spaces are required, and to provide parking 256' off site where 250' is the maximum distance allowed.	
REPRESENTATIVE(S): Dominic Emilio	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ Garbage enclosure has been removed from the Pine St part of the project; moved interior of the building on residential level 1. Access to this area will be out to the Henry St. ▪ Solar study concerns: removing several large trees to build the building, there would be a net positive impact on the solar panels for neighbor at 81 Pine St ▪ The city will not be selling the lot at 229 Court St to the applicant as previously discussed, so this reduces the amount of parking available to just 10 spots on 162 Henry St. But according to the code, 79 spaces are still required, and the 30 leased spaces will not be accounted for, since they are under the ownership of the Rumble Ponies, and not Kearney Realty Group. ▪ 3 bike racks were added to Henry St, 1 on Pine St, and there is an interior space allocated to residents for additional bike storage ▪ Agreement made between the Rumble Ponies and applicant to lease 30 parking spaces over a 15-year period 	

- Board member (Matzo) asked about what would happen when there are baseball games going on at the stadium from which the applicant is leasing 30 parking spaces from?
- Representative answered, there will be communication made to the staff of the Rumble Ponies team that residents and tenants of the Henry St project have permission to park full time. Also, the parking has been allocated specifically to the furthest east corner of the parking lot, the spaces that will be empty or last sold on the game nights per the agreement made
- If approved by the ZBA and PC, the construction will take place starting next Spring

PUBLIC COMMENT:

- **Kathy Staples** from 79 Pine St talked in opposition of the project
 - Removal of trees will eliminate any privacy I have from upper story residents of 77 Pine St from looking into my backyard and into my house
 - With the construction of the fire station, things fall out of the cabinets because of the shaking of the ground due to metal poles being put into the ground
 - Construction crew do not think rules apply to them; they pull large construction equipment in my driveway to back it up into the entrance to the fire station
 - When you add in another large construction on a residential street, you are asking for small children to be killed; we do have small children, they do play outside, they try to enjoy their life

VOTING

MOTION to reopen the public hearing portion of this application

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (3-0-2)
AYE(S): Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S): Resciniti, Bucci

MOTION to close the public hearing portion of this application

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (3-0-2)
AYE(S): Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S): Resciniti, Bucci

MOTION that the ZBA is lead agency in SEQR review and that the action is unlisted

FIRST: Donovan	SECOND: Matzo	VOTE: Carried (3-0-2)
AYE(S): Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S): Resciniti, Bucci

MOTION to issue a negative declaration under SEQR

FIRST: Donovan	SECOND: Landers	VOTE: Carried (3-0-2)
AYE(S): Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S): Resciniti, Bucci

DELIBERATION:

-FOR AREA VARIANCES- (Rear Setback)

1. The Zoning Board of Appeals determined that the granting of the variance of 4’ setback where 20’ is the minimum [would not] result in an undesirable change in the neighborhood because there will be a consistent separation between applicant’s property and its neighbors. There will be a use of a retaining wall to separate property from its neighbors. It will be an improvement, it will physically be maintained, established, repaired and usable.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. Because it boils down to the calculation of square footage required for the project overall to determine where the structure will go regards to the property line. The applicant must have looked at getting close to the established zoning code as possible. Requesting a 4’ setback is better than building something on the line.
3. The Zoning Board of Appeals determined that the requested variance was not substantial based on [because there are a lot of properties in the surrounding areas of this project and in other areas of the city of Binghamton are right up to the property line when they are supposed to have a 20’ setback. It is not substantial overall in the scheme of how Binghamton is laid out].

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 because of the process they have to go through for the project. It is self-created due to the building of the project only.

-FOR AREA VARIANCES- (Lot Coverage)

1. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because it is very close to being approved. The applicant needs it to build the number of units required for their project.
2. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. The only other alternative method would be to go up, going any higher would have been worse that way.
3. The Zoning Board of Appeals determined that the requested variance was not substantial based on 3% more lot coverage is not substantial.
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. To some extent it will be an improvement to the area.
5. The Zoning Board of Appeals determined that the alleged hardship was self-created because of the process they have to go through for the project. It is self-created due to the building of the project only.

-FOR AREA VARIANCES- (Building Height)

6. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because the required variance is on the Henry St side of the project. If it was on the Pine St side of the project, it would be much more substantial and undesirable
7. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. Because of the area vs. height, to meet the whole design process requirements, the square footage has to be allocated to other parts of the project, so the increased height on Henry St side of the project is reasonable.
8. The Zoning Board of Appeals determined that the requested variance was not substantial based on, it is relatively high for residential buildings/areas, but it will not be totally out of place in the area that it is, it will be little higher and noticeable.
9. 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.
10. The Zoning Board of Appeals determined that the alleged hardship was self-created because of the process they have to go through for the project. It is self-created due to the building of the project only.

-FOR AREA VARIANCES- (Required Parking Spaces)

11. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because it not the best scenario, but it is not the worst.
12. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. The applicant could have found other avenues to increase parking, but an opportunity fell apart (229 Court St parcel). They spent a lot of time looking for spots for parking, but not a lot of them had become available.
13. The Zoning Board of Appeals determined that the requested variance was not substantial based on comparison to other typical area variances for parking, 50% is as about as far as you would want to go regarding allowed variance request.
14. 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.
15. The Zoning Board of Appeals determined that the alleged hardship was self-created because of the process they have to go through for the project. It is self-created due to the building of the project only.

-FOR AREA VARIANCES- (Maximum Parking Distance)

16. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because most people if they were walking would not notice a difference in walking 250 feet vs. 276 feet.
17. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. Because parking is difficult and the applicant had looked at a lot of options, could it have been achieved by some other options, if it could have, it would be listed in the project.
18. The Zoning Board of Appeals determined that the requested variance was not substantial.
19. 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.
20. The Zoning Board of Appeals determined that the alleged hardship was self-created because of the process they have to go through for the project. It is self-created due to the building of the project only.

MOTION to approve the requested variance(s), subject to the following conditions:

- Contract/lease (if such documents are acting as a condition of approval) or a provision with a certain number of parking spaces (with the Rumble Ponies) be filed with the City of Binghamton Clerk's office.
- Once the 15-year lease agreement with the Rumble Ponies expires, either renew the lease or if they acquire another piece of property, to offer equivalent spots.

FIRST: Matzo	SECOND: Landers	VOTE: Carried (3-0-2)
AYE(S): Matzo, Landers, Donovan	NAY(S):	ABSTENTION(S): Resciniti, Bucci

PUBLIC HEARINGS & FINAL DELIBERATIONS

ADDRESS: 183 Water St	CASE NUMBER: ZBA-2022-190
APPLICATION FOR: Area Variances for a 0' rear setback where 20' is the minimum, 100% lot coverage where 90% is the maximum, and 125' in height where 120' is the maximum in the C-2 Downtown Business District	
REPRESENTATIVE(S): JACOB VON MECHOW, Senior Designer for Whitham Planning and Design	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ Previous garage was not compliant with the zoning and built out to the property line, new garage will have same footprint as the last garage ▪ Actual building could be shorter than 125 maximum feet, but just in case it does not pan out that way, an extra 5 feet of variance would be much helpful ▪ Half of the vacant parcel has been repaved into a temporary surface parking lot, so that Boscov's has a decent amount of parking that they need for the holiday season 	

VOTING

MOTION to open the public hearing for 183 Water St		
FIRST: Donovan	SECOND: Landers	VOTE: Carried (3-0-2)
AYE(S): Donovan, Landers, Matzo	NAY(S):	ABSTENTION(S): Resciniti, Bucci
MOTION to table this project to the December 5th meeting		
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (3-0-2)
AYE(S): Donovan, Matzo, Landers	NAY(S):	ABSTENTION(S): Resciniti, Bucci

ADJOURNMENT

MOTION to adjourn		TIME: 6:30 PM
FIRST: Donovan	SECOND: Matzo	VOTE: Carried (3-0-2)
AYE(S): Donovan, Landers, Matzo	NAY(S):	ABSTENTION(S): Resciniti, Bucci

