



# City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
<b>MEETING DATE:</b> February 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	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	
Elisabeth Rossow	Corporation Counsel	

APPROVAL OF MINUTES		
<b>MOTION</b> to approve the January 10, 2023 meeting minutes as written.		
<b>FIRST:</b> Matzo	<b>SECOND:</b> Bucci	<b>VOTE:</b> Carried (4-0-1)
<b>AYE(S):</b> Matzo, Bucci, Landers, Resciniti	<b>NAY(S):</b>	<b>ABSTENTION(S):</b> Donovan

PUBLIC HEARINGS & FINAL DELIBERATIONS	
<b>ADDRESS:</b> 48 Blackstone Ave	<b>CASE NUMBER:</b> ZBA-2022-239
<b>APPLICATION FOR:</b> Area Variance to construct a 12' x 24' shed where no dimension greater than 16' is permitted and 200ft <sup>2</sup> is the maximum area for an accessory shed	
<b>REPRESENTATIVE(S):</b> Jennifer & Michael Kelly	
<b>DISCUSSION POINTS:</b>	
<ul style="list-style-type: none"> <li>▪ Board member (Bucci) asked why the applicants would need a 12' x 24' shed instead of having a smaller shed at 12' x 16', which is allowed per code? She also asked if the applicant had considered building a garage if they had so much stuff to share?</li> <li>▪ Applicants: Caring for family members at their house at 48 Blackstone Ave, so there is no space available in their own house + they would like to store sports equipment, lawn mower/snow blower, etc., instead of having it freely sit in their backyard.</li> <li>▪ For a garage, we thought we would put a car in, but we were not going to do that. We already have a garage that is attached to our house.</li> <li>▪ With the public notice sign it front of our house, we had so many people ask us what it was for and why we are going through all this fuss for a shed? (Collection of signatures and comments on a piece of paper as evidence)</li> <li>▪ Board member (Resciniti) asked if any of the neighbors showing support for the shed are present at tonight's meeting or if they written to the board in support.</li> <li>▪ No one that signed or spoke in favor was present at the meeting</li> </ul>	

- Every neighbor that is north/south or touching our property has signed this letter to show support (Jennifer Kelly)
- Chair (Donovan) asked if the applicants had considered any other size of shed when they were looking for one.
- Applicants: we did, but we needed something bigger to put all of our stuff into. We are thinking about getting a riding lawnmower in the future.
- Construction of shed had started without acquiring proper permits from the city
- Not acquiring the proper permits from the building department before building the shed is how you missed the size requirements
- Board member (Landers) asked if they currently have the shed and one that would incorporate everything that they mentioned?
- Applicants: we currently do not.
- Board member (Resciniti) asked, would a secondary garage be permitted on this property? What are the dimensions for a variance for a garage?
- Staff (Martinez) commented, you could only have one garage or a carport, so they would need a variance, if they wanted another garage. There are no specific maximum dimensions for a garage, you just have to meet the bulk requirements for that zoning district. 16' maximum dimension is specifically for residential sheds.
- Board member (Landers) commented, in his neighborhood, someone put in a 3-car garage on their property, right on Vestal Ave last Fall.
- Staff (Martinez) commented, the applicants would either need a variance for a second garage, or a variance for an oversized shed. The requirements for a garage would have to be at least 5' from the principal building, not more than 16' in height if detached from one story building, not more 20' in height if detached from two story building, not located in front setback required area, cover ground area no larger than that covered by the principal building or 676 sq. ft, whichever is less. If the lot is >15,000 sq. ft, a garage with maximum square footage of 1008 sq. ft may be built.
- Chair (Donovan) asked, if need be, is there any ability for the height of the shed be reduced from 24' to lower at all?
  - Applicant (Michael Kelly): if it needs to be reduced, I will talk to the builder to make the height reduced
- Staff (Martinez): the height of the proposed shed is 16' tall.
- Chair and Board member (Matzo and Donovan): the applicant will have to put up a foundation underneath the built shed structure

**PUBLIC COMMENT:**

- Paul Nelson and Katherine Nelson (neighbor(s) at 18 AUDUBON AVE) spoke against the proposed project. In summary, he had the following to say:
  - We have shed in our yard, one that is built within the regulations, back then it couldn't exceed 100ft without a building permit. There are a number of sheds on adjacent properties, we walked in neighborhood today, in a 3-block radius you cannot see anyone else's sheds (less than 10' in height generally), except for this one, with the sheer volume of what is being proposed. This proposed shed is very big.
  - If I wanted to construct a fence to block the view of the shed, I am only allowed to do a 6' fence to screen something that is well over at least 12' high in height.
  - The proposal of this shed is certainly not in character with the neighborhood in terms of what existing accessory buildings look like. It is also a self-created hardship. If the board offers some discretion to the applicants, that they would also show respect to the adjoining properties and neighbors.
  - Katherine Nelson was showing an image of what this shed will look like from her house at 18 Audubon Ave.
- 2 letters were received in opposition of the project. (Paul Nelson and Mary Surdey).
- Mary Surdey (neighbor at 22 AUDUBON AVE) had the following to say:
  - It's too big, should conform to the city code.

<ul style="list-style-type: none"> <li>Sticks out like an eye shore, takes up most of the backyard. And it looks like a house</li> </ul>		
<b>VOTING</b>		
<b>NOTE: This project involves an area variance for a single unit dwelling. The Zoning Board of Appeals intends to act as Lead Agency in SEQR review and that the action is Type II under SEQRA.</b>		
<b>MOTION</b> to close the public hearing at 5:40 PM		
<b>FIRST:</b> Donovan	<b>SECOND:</b> Landers	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Donovan, Landers, Matzo, Resciniti, Bucci	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>
<b>DELIBERATION:</b>		
<i>-FOR AREA VARIANCES-</i>		
<ol style="list-style-type: none"> <li>The Zoning Board of Appeals determined that the granting of the variance would result in an undesirable change in the neighborhood because despite reducing the size of the shed by 4' - 8' to conform to the code (even 14' x 16'), the neighbors will still be able to see a part of the shed from their properties and point of view. The issue is the length of the shed. Some people would look at the shed and say it is very big, while someone else will say that it is desirable to have storage.</li> <li>The Zoning Board of Appeals concluded that under applicable zoning regulations, there is a reasonable alternative. 16' is an alternative, if it was 12' x 16', it would be permissible, a variance would not be needed if conformed to the code. The dimensions per code are there for a reason(s), but those reasons are arbitrary, as most things that are written in the code are relatively arbitrary to be placed over all properties under consideration. Each area is going to be a little different. Dimensions are there for a reason in the code, but the ZBA exists to discuss exceptions to those reasons. If the applicant applied a second variance for a garage instead of the shed, they could build even a larger space at 12' x 24' if they wanted to.</li> <li>The Zoning Board of Appeals determined that the requested variance was substantial based on the neighbors and their comments, they walk in their neighborhood, they are very concerned about their neighborhood. 288 the neighbors and their comments, they walk in their neighborhood, they are very concerned about their neighborhood. 288 sq. ft to 200 sq. ft, it is much larger than everybody in that neighborhood. The requested sq. ft does not comply with the required sq. ft at all, by a large margin.</li> <li>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. The Zoning Board of Appeals determined that the alleged hardship was self-created because the applicants did not visit or had a talk with the city before building their shed. A lot of the requirements would have been discussed with the city and a lot of these problems would have been handled properly or more straight forward.</li> </ol>		
<b>MOTION</b> to conditionally approve the requested variance based on the following condition(s): To construct a 12' x 20' shed, where no dimension greater than 16' is permitted and 200 ft <sup>2</sup> , which would bring this down to 240 ft <sup>2</sup> of area, instead of 288 ft <sup>2</sup> .		
<b>FIRST:</b> Matzo	<b>SECOND:</b> Landers	<b>VOTE:</b> Carried / Failed (5-0-0)
<b>AYE(S):</b> Matzo, Landers, Donovan, Resciniti	<b>NAY(S):</b> Bucci	<b>ABSTENTION(S):</b>

<b>PUBLIC HEARINGS &amp; FINAL DELIBERATIONS</b>	
<b>ADDRESS:</b> 127 Murray St	<b>CASE NUMBER:</b> ZBA-2023-13
<b>APPLICATION FOR:</b> Area Variances for a parking area with no 5' landscaped buffer and a 13' wide driveway where 24' is required for two-way traffic, and to provide 7 parking spaces where 9 are required in the R-3 Multi-Unit Dwelling District	
<b>REPRESENTATIVE(S):</b> Michael De Cordova (Principal of Flower Hill Hob LLC)	
<b>DISCUSSION POINTS:</b>	
<ul style="list-style-type: none"> <li>Providing a lot of off-street parking, small apartments (grad students, regular students, occasional couples)</li> <li>Division at PC meeting concerning maxing out entire backyard where parking could be placed and blacktop it all to squeeze in 2 more spaces, knowing the problems with aisle lane and 5ft buffer. It was PC's</li> </ul>	

recommendation that the applicant should try and squeeze in 1 more additional parking space = 8 total spaces

- Currently a 7-unit building, turning it into a 9-unit building.
- Two sets of fencing – one chain-link, years ago a wooden slab fence was constructed on the inside.
- There is nice landscaping in front of the property.
- Board member (Bucci) asked if the applicant would require that only one person be living in each apartment at the time?
  - Applicant commented, we do not rent by the bedroom. We rent apartments, “in my experience, in the past someone renting a studio, or a one bedroom has been a single person, or in case of a grad student, often times they are foreign. We do not attract a lot of couples.”
  - This is not a student house; these are all individual apartments.
- Chair (Donovan) asked the applicant whether they were looking for 7 or 8 parking spaces?
  - Applicant commented, he is agnostic about 7 or 8 spaces and asked for a comment from staff member (Martinez)
  - Staff (Martinez) commented, the requirement is 1 parking space per unit. We put 7, because that is what was shown on the site plan, since going to the PC meeting, the PC has requested that the applicant provide at least 8 spaces.
  - Applicant was fine with providing 8 spaces per PC’s recommendation.
- Chair (Donovan) commented, there is an assumption that you the applicant will provide some sort of signage statin watch out for cars or something, so someone does not come whipping out of the driveway from the parking area.
  - Applicant agreed to provide such signage.
- Board member (Landers) asked how many total spaces are currently present at 127 Murray St
  - Staff member (Martinez) commented, there really are no formal parking spaces back there.
- Staff member (Martinez) commented that the county found no significant countywide impacts for this project

**PUBLIC COMMENT:**

- **No one spoke in favor nor against the project**

**VOTING**

**MOTION** to close the public hearing (meeting was opened and closed at 6:35 PM, barring no public comment)

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

**MOTION** that the Zoning Board of Appeals intents to conduct own SEQR review and that the action is Unlisted under SEQR

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

**MOTION** to issue a negative declaration under SEQR

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

**DELIBERATION:**

*-FOR AREA VARIANCES-*

5. The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change in the neighborhood because currently there isn’t formal parking located on the property. But the applicant plans to pave backyard and the driveway to make room for parking. There is nothing undesirable about that.
  - Parking spaces: It is little undesirable to go from 9 parking spaces to 8, but it is not substantially undesirable. Parking is hard to come by, there are currently only 2 spaces on the property, which are

- both located on the driveway, so this proposal would be adding 6 additional spaces in actuality.
- Driveway width: Getting a variance to reduce required driveway width from 24' to approximately 13' is not undesirable, because it will essentially be a one-way traffic and the board is hoping that there is an understanding among the tenants and applicant on how they should be expected to park and drive. Also, it is a pre-existing condition, it is the way it is now. Although the only potential now is that it will be in a good condition.
6. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. There is no other way to be able to have access to the back and proper parking and gain access to it with the current situation.
- Parking spaces: this is the best alternative. You would like to have green space and plantings, but people that are renting would also love to have security for their vehicles.
  - Driveway width: There is no reasonable alternative. The property layout and property lines have not moved.
7. The Zoning Board of Appeals determined that the requested variance was not substantial based on seeing as it is existing, it is not substantial to go from 5' buffer to 0'.
- Parking spaces: Going from 9 spaces required to have only 8 spaces is not substantial, because there are other avenues of parking available that would eliminate the absolute must for the applicant to have 9 spaces and make it a substantial issue.
  - Driveway width: It does not appear to be a substantial request. There are much narrower driveways located throughout the city on various properties.
8. The Zoning Board of Appeals determined that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.  
The Zoning Board of Appeals determined that the alleged hardship for all three variances were self-created but seeing the improvements noted for the property and area in general, is a good thing.

**MOTION** to approve the requested area variances for parking area with no 5' landscape buffer, 13' driveway where 24' is required for two-way traffic and provide 8 parking spaces where 9 are required.

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

<b>ADJOURNMENT</b>		
<b>MOTION</b> to adjourn		<b>TIME:</b> 6:46 PM
<b>FIRST:</b> Donovan	<b>SECOND:</b> All	<b>VOTE:</b> Carried (5-0-0)
<b>AYE(S):</b> Donovan, Bucci, Landers, Resciniti, Matzo	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>