

**City of Schenectady
Board of Zoning Appeals
Meeting Minutes
February 6, 2019**

I. CALL TO ORDER

Mr. Gleason called the meeting to order at 6:30 p.m.

Prior to taking the first item on the agenda, Mr. Gleason explained to the members of the public present how the consideration of the applications would proceed. He stated that the applicants would have an opportunity to make their presentation to the Board, followed by any members of the public who would like to speak in favor of the application. Next any members of the public in opposition to the application would be invited to speak, followed by any further discussion or questions the Board Members wished to put forth prior to the vote. He added that after the initial presentation of the proposal the applicant would not be given another opportunity to comment unless directly questioned by a Board Member.

II. ATTENDANCE

PRESENT: James Gleason, Chair; Fred Clark; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Zoning Officer; Jennifer Mills, Secretary

EXCUSED: David V. Connelly

III. CONFLICT OF INTEREST CHECK

Ms. D'Alessandro-Gilmore stated that she would be recusing herself from the consideration of New Business Applications Items D and E, the Ryan McLaine Use and Area Variance applications.

IV. APPROVAL OF MEETING MINUTES

Motion by Mr. Keller, seconded by Ms. Lester, to approve the Minutes of the December 5, 2018 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. PAUL FALLATI requests an Area Variance for 220 Harborside Drive (39.42-1-21) located in the C-3 Waterfront Mixed Use Zoning District, to allow for 4 directional signs that are 16 SQFT each where 2 SQFT is allowed pursuant to §264-63(C).

Tom Wheeler of AJ Sign Company and Steve Luciano of The Galesi Group presented the application.

Mr. Wheeler explained that he was before the Board and presented this application at the December 2018 meeting, and at that time the Board Members requested that he submit more photographs showing what the signs would look like once they were installed. Mr. Wheeler reviewed the new photos submitted and explained that on the signs with the most text the actual letters will only be 2 inches in height. He stated that if they were to be any smaller they would be almost impossible to read by passing motorists. Mr. Wheeler added that there have been some issues with drivers finding their way around the Mohawk Harbor site with the absence of any directional signage.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Gleason asked if anything about the proposal has changed from what was originally submitted. Mr. Wheeler stated that it had not. Ms. Smith stated that while the size of the signs seems large without viewing them, once they are seen in the intended environment the scale looks appropriate. The other Board Members agreed.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Mr. Clark, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

Motion carried, with Mr. Keller absent from the vote.

AREA VARIANCE APPROVAL

Motion by Ms. Smith, seconded by Ms. D'Alessandro-Gilmore, to approve the Area Variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. The variance is not substantial.
4. There will be no adverse effect on physical or environmental conditions in the neighborhood.
5. The alleged hardship is not self-created.

Motion carried, with Mr. Keller absent from the vote.

- B. ERIN PAGE requests an Area Variance for 1541 Union Street (50.21-2-60), located in the R-2 Two Family Residential Zoning District, to allow for an 18.25 SQFT freestanding sign where a 6 SQFT sign is allowed pursuant to §264-6(K).**

Tom Wheeler of AJ Sign Company presented the application.

Mr. Wheeler reviewed the drawings for the proposed sign and explained that the sign is the same square footage as the last two signs on the property, but a new design.

Ms. Smith asked Zoning Officer Epstein if internally lit signs are allowed under the Upper Union Street Design Guidelines. Mr. Epstein responded that the sign will have to be approved by the Upper Union Street Business Improvement District Board. Mr. Wheeler commented that this sign is like the one that his company built for Northeastern Fine Jewelry on Upper Union Street, and that sign was approved by the BID. Mr. Epstein stated that the applicants will need to reach out to the BID for the necessary approvals. Mr. Epstein noted that his only reservation with the sign would be that it does not match the basic monument sign designed used throughout Upper Union Street.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Gleason asked if the size of this sign is much larger than those of the surrounding businesses. Mr. Epstein stated that it is slightly larger, but it is the same size as the two signs that were previously on the property.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Ms. D'Alessandro-Gilmore, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

Motion carried unanimously, with Mr. Keller absent from the vote.

AREA VARIANCE APPROVAL

Motion by Ms. Smith, seconded by Ms. D'Alessandro-Gilmore, to approve the Area Variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. The variance is not substantial.
4. There will be no adverse effect on physical or environmental conditions in the neighborhood.

Motion carried unanimously, with Mr. Keller absent from the vote.

- C. DAVID TESSITORE requests an Area Variance for SBL 40.30-1-28 on Dorwaldt Avenue, located in the R-1 Single Family Zoning District, to allow for a 2,785 SQFT single family home where a max lot coverage of 2,400 SQFT is allowed pursuant to Schedule C of the Zoning Ordinance.**

David Tessitore presented the application.

Mr. Tessitore explained that he and his wife had originally planned to build a colonial-style home on the property, but due to their advancing age felt it better to build a one-story home without stairs. He stated that when designing the home they did not realize that it would exceed the maximum allowed lot coverage. Ms. Smith asked Mr. Tessitore to describe the layout of the property. Mr. Tessitore stated that there is a two-family home neighboring on one side and the property line on the other side abuts the neighbor's driveway.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Gleason asked Mr. Epstein if the proposed home is larger than most of the surrounding structures. Mr. Epstein stated that it will be larger, but the other homes on the street vary in their size and setbacks.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Ms. Lester, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

Motion carried unanimously, with Mr. Keller absent from the vote.

AREA VARIANCE APPROVAL

Motion by Ms. Smith, seconded by Mr. Clark, to approve the Area Variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. The variance is not substantial.
4. There will be no adverse effect on physical or environmental conditions in the neighborhood.

Motion carried unanimously, with Mr. Keller absent from the vote.

D. RYAN MCLAINE requests a Use Variance for 28 Alvey Street (50.77-1-60) located in the R-1 Single Family Residential Zoning District, to allow for a second, separate dwelling unit where a total of one dwelling unit is allowed pursuant to Schedule A of the Zoning Ordinance.

Ryan McLaine, Lucas Martuscello, and Frank Gilmore, architect for the project, presented the application.

Mr. Gilmore explained that the applicants would like to demolish the existing garage, which is in disrepair, and build a new garage with an apartment on the second floor. He stated that the apartment would be inhabited by Mr. McLaine's brother-in-law, Mr. Martuscello, and the main house would be renovated and inhabited by Mr. Martuscello's grandmother, whom he would be helping to care for.

Mr. McLaine distributed a financial statement explaining the expenses for the property and stated that he had previously had the house listed for sale for over one year but was unable to sell it. Ms. Smith asked if he currently lived there. Mr. McLaine stated that he lived in the house for several years after he bought it, but after he got married and had children his family outgrew the house and moved out. Ms. Smith asked Mr. Martuscello if he paid rent to live in the house. Mr. Martuscello stated that he pays the mortgage and covers the expenses of the property.

Ms. Smith stated that in order to grant a variance the Board must be shown proof that not having the variance will place an unreasonable financial burden on the applicants, and she does not believe that this has been proven in the application and presentation. Mr. Keller stated that the applicant must also prove that the alleged hardship is not self-created, and he does not see a way to make that argument in this case. The Board Members further discussed these issues. Zoning Officer Epstein noted that a Use Variance stays with the property, so future owners would be able to use the garage apartment as a rental unit.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Gleason stated that his concern is that the Use Variance would introduce a second residential unit in a Single-Family Residential District when the applicant has not proven that he cannot realize a reasonable return on the property without the variance, nor has he proven that the hardship is not self-created. The other Board Members agreed.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Mr. Keller, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

Motion carried unanimously, with Ms. D’Alessandro-Gilmore recusing herself from the vote.

USE VARIANCE DENIAL

Motion by Ms. Smith, seconded by Mr. Keller, to deny the Use Variance based on the following findings of fact:

1. The applicant can realize a reasonable return with the allowed uses.
2. The alleged hardship relating to the property is not unique and applies to a substantial portion of the district or neighborhood.
3. The requested use variance will not alter the essential character of the neighborhood.
4. The alleged hardship has been self-created.

Motion carried unanimously, with Ms. D’Alessandro-Gilmore recusing herself from the vote.

- E. RYAN MCLAINE requests Area Variances for 28 Alvey Street (50.77-1-60) located in the R-1 Single Family Residential Zoning District, to allow for a minimum lot frontage of 30’ where 40’ is required, a 20’ front setback where 25’ is required, a 4’ side yard setback where 5’ is required, a maximum lot coverage of 1,328 SQFT where 1,269 is allowed, and a minimum lot area of 4,320 SQFT where 10,000 SQFT is required pursuant to Schedule C of the Zoning Ordinance.**

Ryan McLaine, Lucas Martuscello, and Frank Gilmore, architect for the project, presented the application.

This proposal was discussed together with the previous Use Variance application (Item D) submitted by Mr. McLaine.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Connelly stated that while he acknowledges that the proposed sign is large, he feels that the size and location of the building is unique. The other Board Members agreed.

SEQR RESOLUTION

Motion by Ms. Smith, seconded by Mr. Keller, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

Motion carried unanimously, with Ms. D'Alessandro-Gilmore recusing herself from the vote.

AREA VARIANCE DENIAL

Motion by Ms. Smith, seconded by Mr. Keller, to deny the Area Variances based on the following findings of fact:

1. An undesirable change will be produced in the neighborhood.
2. The benefit sought by the applicant can be achieved by another method.
3. The variance is substantial.
4. There will be an adverse effect on physical or environmental conditions in the neighborhood.
5. The alleged hardship is self-created.

Motion carried unanimously, with Ms. D'Alessandro-Gilmore recusing herself from the vote.

VII. MOTION TO ADJOURN

Motion by Mr. Keller, seconded by Ms. Smith, to adjourn the meeting.

Motion carried unanimously.

Meeting was adjourned at 7:37 p.m.