

Schenectady Board of Zoning Appeals

Minutes

July 5, 2023

I. CALL TO ORDER

Commissioner Mr. Gleason called the meeting to order at 6:33 p.m.

After calling the meeting to order, **Mr. Gleason** explained to the members of the public 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. The meeting is being recorded.

II. ROLL CALL

PRESENT: James Gleason, Chair; Mary D'Alessandro-Gilmore; Helene Lester, Brendan Keller, Jack Connelly, Chris Marney, Assistant Corporation Counsel, and Sylvia Jimison, Development Staff.

III. EXCUSED: Fred Clark and David Connelly

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IV. CONFLICT OF INTEREST CHECK

None.

V. APPROVAL OF MEETING MINUTES

The minutes were approved for the June 7, 2023, meetings. The motion was made by **Commissioner Keller** and seconded by **Commissioner Lester**.

Motion carried unanimously.

VI. Applications: Old Business

- A. TK Sons Properties INC** requests a use variance for 820 Strong St. (tax parcel 49.40-2-7) located in the R-2 Two -Family Residential District to use four dwellings where two are allowed, pursuant to Section 264 Attachment 1 Schedule A.

Mr. Andy Brick from Brick Law Firm on behalf of applicant TK Sons Properties, Inc., came before the commission to request a use variance for 820 Strong Street, located in the R-2 Two Family Residential District for use for a four dwelling where only two-family dwellings are allowed.

Mr. Brick stated that previously financial data was not available at the previous commission meeting June 7, 2023. He provided the commissioners with 3 separate documents to show lack of reasonable return for the properties to be used as 2-family dwellings. He indicated that documents included a profit loss statement.

Mr. Brick went on to say, “The other two [documents] are an amortization calculator and is based upon borrowing the amount of money needed to rehab it first as a two family and then secondly as a fourth family. So if you look at the first page with the profit and loss statement Teekah, who's done this for a while and is in the business [and] has estimated that rehabbing the property as a two family is going to cost \$205,000 for rehabbing it and improving it to a four family and will only increase the costs to \$215,000.

The bulk of the rehab has to be done, whether it's two family or four family. The first amortization catered calculator for the existing allow the two-family use is borrowing that \$205,000 for a 10-year mortgage with it with a 6% interest rate that results in a monthly mortgage payment of \$2,275.

The second page of the profit and loss statement includes the estimates obtained for both insurance and taxes. So, if you look, we've broken that down on a monthly basis; for the two family, the monthly costs, and these are just the three big ones.

These are just mortgage insurance and taxes results in a cost of \$2,698 a month. But yet if you look at the rents that are projected, and only the two family only results in \$2,500 rent. So, rehabbing it to the two family gets a negative monthly return of \$198. And that's on the two family. But if you look at the four-family amortization calculator, again, you only had to borrow \$250,000 he only went up \$10,000 to convert it to a four family 10 years 6% interest, the monthly mortgage is \$2,386, the monthly insurance goes up to \$200. The monthly taxes go up to \$333.

I said before the meeting, he's woefully underestimated the taxes that will be charged when this hasn't improved, but we'll use what he gave us. That results in a monthly cost of \$2,919. But the four- family allows for rents of \$4,000. So, when you compare the two-family amortization for family amortization, based upon profit and loss numbers, the four-family results in \$1,081 a month in income.

So, converting it to a four-family borrowing the money on a 10-year note allows for a profit, it's not huge, but it's \$1,000 a month, whereas utilizing it as the two family results in a net monthly loss, and no one is going to make the investment to rehab it and have a negative loss to families; so, that's why we requesting to the four- family.”

Commissioner Keller asked that the applicant if they could substantiate the numbers and why the numbers were rounded to exact dollar amount. The applicant answered the numbers came from the property-owner who has experience in rehabbing properties. The property owner indicated that one floor would be \$75,000 to rehab plumbing, siding, and heating as a four-family, he said it would be more expensive to remove everything, based on the cost of materials.

Mr. Brick said the numbers are rounded because they wanted to provide costs for landlord vacancy rates, security costs and kept the costs conservative.

Commissioner Gleason stated that contractor's base costs on square footage and thought it to be \$50 a square foot and asked the applicant if he knew the square footage of the dwelling. **Commissioner Lester** asked the applicant if they had got bids for electrical or plumbing from contractors?

Commissioner Keller asked applicant again if they had anything in writing to substantiate how they came up with the numbers. The applicant would need to explain how they came up with the numbers.

Commissioner D'Alessandro-Gilmore asked about \$55,000 to do work on the outside and wanted to know what the outside work will be.

The applicant responded siding would need to be rehabbed and back porch must be rebuilt. He would also need to remove existing heating unit if it's to be a four-unit; it's already in the dwelling as a 4-unit.

Commissioner Gleason asked the public if anyone oppose or in favor of the project.

A neighbor to the dwelling said that given the fact the applicant would be doing a majority of the work on their own, and was also on the agenda for the rehab of a 9-unit building, she had concerns that all the proposed work would be able to be done in a proper manner. She was opposed to the project and wanted more clarity about the project. She was also concerned about Hilderbrandt Avenue dwelling that the applicant owns.

Mr. Brick requested if the matter could be adjourned to get more information in time for the next commission meeting.

Mr. Brick agreed to extend the 62 day period for a Board decision, in order to further supplement the Board with materials in the next meeting.

RESOLUTION

A motion was made by **Commissioner Keller** and seconded by **Commissioner Lester** to table the application because the applicant did not provide in depth financial details for the property to be a 4-unit from a 2-unit dwelling. The applicant was requested to return to the BZA commission with revised application and appropriate financials for the 2 to 4 unit property.

Motion carried unanimously.

VI. Applications: New Business

- A. **TK Sons Properties INC** requests an area variance for 820 Strong St. (tax parcel 49.40-2-7), located in the R-2 Two -Family Residential District to allow for full on street parking where six are required pursuant to Section 262-44 B. Schedule F.
- B. **B. TK Sons Properties INC** requests an area variance to allow parking for 1151 Hilderbrandt St. (tax parcel 49.34-2-18.1) to occur on 35 Moyston St. (tax parcel 49.34-1-39-1), both in the R-2 Two-Family Residential District pursuant to Section 264-102(B)(4)

Mr. Brick appeared before the commission and stated, “this is a property on Hildebrand Avenue, which is a nine-unit apartment currently vacant. Teekah has purchased from the property under his own name. The notice went out as TK Sons properties, as the applicant, but its Teekah Lachman, who's the applicant. It's nine-unit purchase from the city.

As part of that purchase, it also involves the purchase of an ancillary parking lot. That was a few lots down from the property to be used for the parking. For some reason, somehow, the ancillary parking was sold to another party.

So as a result, Teekah has had to apply for a special use permit, as the city has located for him another alternative ancillary parking area, which is at 35 Moyston Street. Also, as part of the special use permit, will have to comply with the ancillary parking requirements of the code.

One of those requirements of 264.102 is that every ancillary parking area shall be contiguous to the lot on which the principal use being served is situated and that's the variance that we are requesting...” **Mr. Brick** went onto say that the area was paved for parking.

He also said, “the parking lot is proposed to have 14 spaces which meets the requirement of the code for one and a half per unit for multifamily. So that's how we get to 14. So, not requesting a variance for the number of spaces. We're requesting the variance because it's not contiguous to the Hilderbrandt property.”

Counsel Marley, indicated, “there was an error made, the contiguous parking area was to be sold to Mr. Lachman. Some sort of error occurred, city council resolved to sell it to another person. And as such, now the property is not compliant because it won't have the parking. So generally, the city is supportive of the application. The other issue surrounding this is this lot is currently being used as an illegal turnaround for people driving through Moyston Street. Parking lots are permitted as of right in a two district. The only relief that's being requested here is it's the contiguity requirement to allow the parking area to be tied to the Hilderbrandt property. So, because of the error, the city will own that mistake, but unfortunately, the applicant will still need to get a variance in order to use for parking.”

Commissioner Gleason asked if there were any comments from the public in favor or opposed of the project.

PUBLIC COMMENTS IN OPPOSITION

Ms. Parker, a neighbor to the project, 24 Moyston Street, came before the commission and said she opposes the project. She said the lot is not paved and it has big potholes. She can see the parking lot from her home on Moyston Street. She has 20 videos and has been to the City Council meeting to show them the videos. City staff uses the lot for a turnaround and there is no pavement, and there are 4 lots. She also said the street is narrow and snowplows.

She also stated that other neighbors oppose the lots and also attended the City Council meeting. She went onto say that 31 and 35 Moyston Street are buildable lots and 29 and 31 Moyston Street are not buildable lots. The applicant should use the lots that are not buildable for parking. She also stated that 29 and 31 Moyston Street are city-owned properties.

Counsel Marney said the city does not own the lots that are contiguous to it. A lot in R2 is permitted for parking, a larger parcel is permitted and requires a use variance.

Commissioner Keller wanted to know how big the lot under contract was to be sold.

Counsel Marney said he did not have that information in front of him. 1160 Hilderbrandt was combined with 1164 and this created a void for a parking lot. 1156 Hilderbrandt is 87x43 lot. 29 ½ and 31 Moyston Street are privately-owned properties.

Ms. Parker asked if the project could be tabled until the next meeting and said because the city is waiting for deed to come in for 31 Moyston Street.

Mr. Brick returned to the table to hear the commissioner's resolution because he said he could not hear because of the air conditioner unit in the room.

Commissioner Keller, stated, "make the record clear. I'm concerned. I think relief is necessary in this case. I'll just lead with that. I'm concerned that there's some neighborhood opposition to the proposed lot. I would like to know if another lot is available that will accommodate both the neighborhood and your client."

RESOLUTION

A motion was made by **Commissioner D'Alessandro-Gilmore** and seconded by **Commissioner Lester** to table the application because of neighborhood opposition, to determine if another lot is available and to get more clarity about the lots for parking requirements for the variance.

Motion carried unanimously.

C. **Alco RE Properties LLC** requests an area variance for 220 Harborside Dr. (tax parcel 39.42-1-20) in the C-3 Waterfront Mixed-Use District to allow a blade sign as the second sign on the properties façade pursuant to Section 264-61(K).

Ms. Carly Clark, AJ Signs, came before the commission representing the applicant to place a blade sign on the building because of the walkability of the Mohawk Harbor where the public can easily see the sign. The hours of operation are mostly evening, and the business is open during the day and for the night crowd an illuminated blade sign would help people get to the actual bunker.

Ms. Clark continued to say, “The Bunker is an indoor golf simulator. I believe this is his fourth might be fifth location of its kind. It’s like high end golf and he's going to do a patio similar to Shaker and Vine [restaurant] so there's an outdoor bar and indoor bar what's pretty cool in there so far and supposed to open at the end of the month golf bar to do parties and stuff. Like a regular golf course but inside. It is cool if you've never been sign up it's his logo it's actually a B for bunker to kind of add the mirror on the other side so one side is actually backwards B.”

The commissioners had concern for other sign projects coming forward with similar requests.

Commissioner Gleason asked if there were any public comments in favor or opposed to the project and there were none.

RESOLUTION

Commissioner Keller, the board grants the area request area variance request for 220 Harborside Dr. (tax parcel 39.42-1-20) in the C-3 Waterfront Mixed-Use District to allow a blade sign as the second sign on the properties façade pursuant to Section 264-61(K).

I make this motion based on the following findings of facts, 1, 2, 3,4, and 5. Seconded by **Commissioner D’Alessandro-Gilmore**.

SEQR RESOLUTION

The application was declared to be a Type II SEQR Action which requires no further actions to take place.

AREA VARIANCE APPROVAL

1. An undesirable change will not 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 not be an adverse effect on physical or environmental conditions in the neighborhood.
5. The alleged hardship is not self-created.

Motion carried unanimously.

D. Guiseppe Caschera requests an area variance for 20 Monroe St. (tax parcel 49.31-1-18.11) in the R-3 Multi-Family Residential District, to allow 3 off-street parking spaces in the front yard pursuant to Section 264-43(A)(1).

E. Guiseppe Caschera requests an area variance for 20 Monroe St. (tax parcel 49.31-1-18.11) in the R-3 Multi-Family Residential District, to allow a 17.5' rear setback as opposed to 25' pursuant to Section 264 Schedule C.

F. Guiseppe Caschera requests an area variance for 20 Monroe St. (tax parcel 49.31-1-18.11) in the R-3 Multi-Family Residential District, to lower the area requirements of a multi-family home in the R-3 district pursuant to Section 264 Schedule.

Commissioner Gleason presented the three applications together to the public.

Mr. Luigi Palleschi with ABD Engineers and surveyors came before the commission and stated the following:

“We're here tonight for project at 20 Monroe Street. It's right on Monroe Street off of Erie Boulevard the size is roughly 30 x 96. It's a small lot here in the city. **The first area variance** that we're requesting to kind of go in order and touch on all of these is this three off street parking spaces. The applicants proposing a two-family apartment building. The city code requires one and a half spaces per unit, which requires three parking spaces.

The way we've situated the building is allowing three off street parking spaces that will come right off Monroe St., we have plenty of distance width wise being depth wise to fit three of those parking spaces. The residents would use the front door and there's a door on the backside as well. There will be separate entrances for the first floor and second floor for each unit.

We feel that having to offer free parking will be a benefit to Monroe Street. Monroe Street is a narrower street, it does have on street parking; and having three additional off-street parking would free up some on street parking for the other residents along Monroe Street. Moreover, across the street and next door, they do have parking in the front yard as well.

So, we feel that it's not going to be out of character. There are similar properties along Monroe St. that have front yard parking and they would have to back out onto Monroe Street as well, just like we would leave off-on street parking to the east side of Monroe Street. One of the reasons, that we're here is because of the requirement as I mentioned, the one and a half parking spaces. If we didn't go for this variance, then the flipside would be we'd be here for a variance of not having parking for this project.

The **second area variance, which is the rear setback.** When looking at this variance, there is no additional land to purchase. The applicant did reach out about a vacant parcel next door and was unsuccessful when purchasing additional land to maybe reconfigure the building footprint.

Being that we have a narrower lot to begin with and meaning the side setbacks. We have a building footprint with porches for each of the doors on the front and the back side. So

positioning this building obviously was situated so that we can get off street parking in the front, which leaves about 17 and a half feet of setback in the rear when 25 feet is required.

The 17-and-a-half-foot setback dimension, as shown out here is to the actual porch. And we can provide 21.8 feet to the actual foundation. We feel that it's not substantial. We were before the Planning Board with a different application before looking at a two family and that was for a mixed use. And that mixtures building was a little larger, and it was closer to the rear setback. But when the applicant has decided to look at a two-family option, we were able to increase the rear setback. Another thing to notice on the rear side there is a commercial property. So it wouldn't impact any other neighbors so to speak in that we're and that is a commercial building, so less impact to that neighboring property.

Moving on to the third variance. This variance is really for the two apartment units. The lot size that we're that we have here to deal with is 2880 square feet. And the code requires 2250 square feet per dwelling. We are proposing two-family unit as mentioned. Also, as mentioned, when we were before the Planning Commission, the applicant was proposing a mixed-use building, they wanted to do a laundromat on the first floor with two apartments on the second floor.

And after hearing the Planning Commission and the residence; they were opposed to that. But they were in favor of pursuing with a two-family residential unit. If you look at the neighborhood, and the zoning, it's out there. I think this corridor was always set up for residential. So, the applicant after hearing everybody at that meeting, decided to come forth with a two-family apartment because it will fit the neighborhood a little bit better.”

Commissioner Gleason asked if there were any comments from the public in favor or opposed of the project.

PUBLIC COMMENTS IN OPPOSITION

Ms. Mary Ruscitto President of the East Front Street Association, came before the Commission and said that the property is one of the concerns, that in the moment, it's about the future of the area.

She went onto say, “they promised that they would only have a small engine repair shop there. Now the property has junk cars all over the place. You can't walk down the sidewalk. It's despicable. They have a building on Jefferson Street that's empty [and disrepair]. They don't care about it.

Also, Madison Street where their nephew lives, the place is atrocious There's garbage and junk, and wood all over the property and in the windows. He has not for sale signs in every single window. We've turned it into code. We can't do it. Are they going to keep this building? Whether they can you know, it's across the street from a drug store right now. They wanted to put a laundromat in there. That's why we started so that that's the concern of the neighborhood because this family does not have a good record of our neighborhood.”

Mr. Dan Zal a homeowner came before the commission and said the following, “I had not been made aware of the plans to change to exclude the laundry from the first floor, which I think is a really good idea.

I hadn't really thought seriously great depth about the course. But a couple of clarifications would be that I have a parking lot. It's not a front yard, next month, a parking lot directly across from this proposed project. And it's about six off street cars. Parking is a huge issue.

Last week, I got a phone call from a woman who lives across the street. She's a tenant across the street, she called me to complain to me that my tenants were taking up too much parking on the street. So that is not typical. But it's kind of down until that point, you know, we're not going back to the box.

The mere fact that people call me up to complain that they don't have parking, lands itself, validate issue. The property next door, that area that was referred to as a front yard, is a backyard. That property is not a Monroe Street address. I don't even know what the neighborhood streets, but they are using part of their backyard for their cars on the street. I don't think there are any houses on that street that have front yard, it may not be the house, the neighborhood has a front yard, all these houses are filled with about an eight foot setback from the street. You know, this would be a very atypical kind of arrangement designed. So, you should be aware of that.”

Commissioner Gleason closed the public comment session.

RESOLUTION

A motion was made by **Commissioner Keller** and seconded by **Commissioner Lester** to table the application for lower the area requirements and area variance for rear setback etc., Schedule A Schedule C.

A motion was made by **Commissioner Keller** and seconded by **Commissioner Lester** to deny the application for an area variance for 20 Monroe St. (tax parcel 49.31-1-18.11) in the R-3 Multi-Family Residential District, to allow 3 off-street parking spaces in the front yard pursuant to Section 264-43(A)(1) for the following:

AREA VARIANCE DENIED

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.

- VII. Other Business – none
- VIII. Adjourned 8:16 p.m.

