

**City of Schenectady
Board of Zoning Appeals
Meeting Minutes
July 10, 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; David V. Connelly; Mary D'Alessandro-Gilmore; Brendan Keller; Krystina Smith; Avi Epstein, Zoning Officer; Jennifer Mills, Secretary

EXCUSED: Fred Clark; Helene Lester

III. CONFLICT OF INTEREST CHECK

None.

IV. APPROVAL OF MEETING MINUTES

Motion by Mr. Connelly, seconded by Ms. Smith, to approve the Minutes of the June 5, 2019 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. PATRICIA BOOCHOON requests an Area Variance for 27 ½ Columbia Street (49.27-2-17) located in the R-1 Single Family Residential District, to allow for a shared driveway with no setback from the abutting property line where 2' is required pursuant to §264-43.B(1) of the Zoning Ordinance.

Patricia Boochoon and Alger Scott Jr. presented the application. This application was considered and discussed together with item B, the Alger Scott Jr. Area Variance application, because the applications involve a shared driveway between the two properties.

Ms. Boochoon explained that she and her neighbor would like to install a shared driveway because on-street parking is very difficult by her home, and there are often hit and run accidents with damaged cars that can result in significant expense. She noted that after a snowfall it is often difficult for emergency vehicles to navigate the narrow street. Ms. Boochoon stated that she has three children and feels it would be much safer for them to enter and exit her vehicle in a driveway rather than on the narrow street. Mr. Scott stated that the street has alternate side parking but if cars park on the wrong side the street is barely passable. He noted that there are also visibility and safety problems and added that he believes getting his and Ms. Boochoon's cars off the street will contribute to easing congestion and making the street safer.

Ms. Smith stated that Ms. Boochoon had recently been granted an area variance to have a shared driveway on the other side of her property and asked why Ms. Boochoon had now filed a new application. Ms. Boochoon said that there is a very large tree that would have to have been removed before installing the driveway on the other side, and upon receiving quotes to remove it it became apparent that the cost would be prohibitive. Ms. Smith noted that the proposed driveway is not very long. She asked how many vehicles the applicants plan to park in the driveway. Ms. Boochoon stated that she has two vehicles and Mr. Scott has three but they intend to park them in their backyards. Zoning Officer Epstein noted that there are other restrictions and requirements for the rear yard parking, as well as the question of the amount of impervious surface being added to the properties.

Ms. Smith stated that she would not feel comfortable approving the variance without knowing the plan for the parking of the cars, as they clearly will not all fit in the driveway. She asked the applicants if they would be able to return to the next meeting with a plan for the parking areas. Mr. Scott stated that they have plans for the parking areas but had not known that they needed to be a part of this application. Mr. Epstein stated that if the parking plans are approved by the Zoning and Codes Departments, they would not need specific approval by the Board, but the Board could ask to see these plans as part of their consideration of the area variance. Mr. Keller stated that he would like to see the parking plans because they would help him to judge if the use of the driveway is feasible. Mr. Connelly asked if there are any other garages or outbuildings on the two properties. Ms. Boochoon stated that there are not. Ms. Smith noted that the parking of the cars was not considered by the Board with Ms. Boochoon's previous application. Mr. Connelly stated that the Board was not aware at that time that the applicants plan to park five cars in their yards. Mr. Scott noted that he only plans to park two of his three cars in the yard.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Ms. Smith stated that she would like to see the plans for the two parking areas before making a decision on the application. The other Board Members agreed.

MOTION TO TABLE

Motion by Mr. Connelly, seconded by Ms. Smith, to table the application pending the submittal of further information regarding the proposed parking areas in the rear yards.

Motion carried unanimously.

- B. ALGER SCOTT JR. requests an Area Variance for 27 Columbia Street (49.27-2-16) located in the R-1 Single Family Residential District, to allow for a shared driveway with no setback from the abutting property line where 2' is required pursuant to §264-43.B(1) of the Zoning Ordinance.**

Because they involve a shared driveway between two properties, this item was discussed and considered with the previous application.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Please see Item A.

MOTION TO TABLE

Motion by Mr. Connelly, seconded by Ms. Smith, to table the application pending the submittal of further information regarding the proposed parking areas in the rear yards.

Motion carried unanimously.

- C. MARYLU ARAGOSA requests an Area Variance for 1608 Union Street (50.30-2-5) located in the C-2 Mixed-Use Commercial District, to allow 2 businesses and 1 residential unit to operate on 4,600 SQFT where a total of 7,250 SQFT is required pursuant to Schedule C of the Zoning Ordinance.**

Because the applicant was not present at the meeting the application was not considered.

D. BRENDAN NALLY on behalf of Good Clean Living LLC, requests an Area Variance for 1687 Avenue A (39.51-2-48) located in the R-2 Two Family Residential District, to allow a business with a minimum lot area of 5000 SQFT where 9500 SQFT is required pursuant to Schedule C of the Zoning Ordinance.

Brendan Nally and his wife Annie Nally presented the application.

Mr. Nally explained that he had previously been granted a use variance for the property, but at the time he had not been aware that he would need an additional area variance in order to open his wife’s salon on the site. Mr. Nally stated that he and his wife live on the property and also plan to have another apartment there, along with the salon.

Zoning Officer Epstein explained that because the property is in an R-2 Residential District there are stricter density requirements than in the other business districts.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Gleason stated that he believes that the use of the property for the business and apartments should be allowable, otherwise the Board should not have granted a use variance. The other Board Members agreed.

SEQR RESOLUTION

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

Motion carried unanimously.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, 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 unanimously.

E. HEMWATTIE SANICHAR requests an Area Variance for 433 N. Brandywine Avenue (49.36-1-50) located in the R-1 Single Family Residential District, to allow for a 30' x 26' (780 SQFT) carport where a 192 SQFT carport is allowed pursuant to Schedule C of the Zoning Ordinance.

Hemwattie Sanichar presented the application.

Ms. Sanichar explained that she is a single mother and also takes care of her mentally ill brother. She stated that she installed the carport because her brother likes to spend time outside as part of his treatment and the carport allows him to be out of the direct sun. Zoning Officer Epstein noted that the carport has already been built. He stated that it was constructed by a contractor who is known to the City administration, and this contractor requires the homeowner to get the proper permits so it is not his responsibility. Mr. Epstein noted that the carport meets the setback requirements, but it is the large size that is the problem. Mr. Connelly stated that the size is very big and larger than most garages in the area. Ms. Smith agreed, stating that the structure is completely out of scale in the neighborhood. The other Board Members agreed.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

Ann and Phil Osborne of 626 Plymouth Avenue spoke about the persistent drainage problems that exist in the backyards on their street, which backs up to this property and others on Brandywine. Ms. Osborne stated that because of the paved backyards and higher grade of many of the houses on Brandywine stormwater runs through the backyards on Plymouth and destroys landscaping and retaining walls, as well as causing other damage. She stated that while she does not have a specific objection to the carport, except that its size seems out of scale with the neighborhood, she is concerned about it because it will add more impervious surface to an area that cannot handle any more. Mr. Osborne noted that he and his wife and son, who also owns a property on Plymouth, have been in touch with the City repeatedly about this problem.

Zoning Officer Epstein noted that he has researched the issue and unfortunately many of the paved yards are grandfathered, since they were

installed before the Code changes that made this practice illegal. He stated that any paving that does not pre-date the Code changes will be cited.

CONTINUED DISCUSSION

Ms. Smith stated that while she has empathy for Ms. Sanichar regarding the money she has invested in the carport that cannot be sufficient reason to allow it to remain. Mr. Connelly agreed, stating that this has been an ongoing problem with contractors constructing these large carports without pulling the proper permits, but ultimately the onus lies on the homeowner to make sure that what they are doing is allowed under City Code. Ms. Smith added that she has concerns that this large impervious surface would only make the drainage problems in the area worse. 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 adverse impacts on the environment.

Motion carried unanimously.

AREA VARIANCE DENIAL

Motion by Ms. Smith, seconded by Mr. Connelly, to deny the Area Variance 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, as the carport is over four times what is allowed by the Code.
4. There will be an adverse effect on physical or environmental conditions in the neighborhood. There are consistent water drainage and run-off problems in the area which will only be exacerbated by the addition of this amount of impervious surface.
5. The alleged hardship is self-created.

Motion carried unanimously.

VII. MOTION TO ADJOURN

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

Motion carried unanimously.

Meeting was adjourned at 7:11 p.m.