

Schenectady Board of Zoning Appeals

Minutes

March 1, 2023

I. CALL TO ORDER

Commissioner Mr. Gleason called the meeting to order at 6:30 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, Austin Erickson, Chris Marney, Assistant Corporation Counsel, and Sylvia Jimison, Development Staff.

III. EXCUSED: Mary D'Alessandro-Gilmore and Fred Clark

IV. CONFLICT OF INTEREST CHECK

None.

V. APPROVAL OF MEETING MINUTES

- A. Review and approve the January meeting minutes.
- B. Review and approve the February meeting minutes.

The minutes were approved for the January 4, and February 1, 2023 meetings. The motion was made by Commissioner Keller and seconded by Commissioner Connelly. All in favor.

IV. **Applications: Old Business - None**

V. **Applications: New Business**

- A. **Louis & Carmela Grasso and Beth Kayser** requests an area variance for 2504 Albany St. (tax parcel #60.29-2-4.1), located in a "C-5" Business District to install a second sign on the lot pursuant to Section 264-61 A. (2).

Ms. Carly Clark from A.J. Signs representing Ms. Kayser said requesting approval for sign to be installed by the second wall sign, its non-lit, and next to entrance to building. The second sign will be on the side of the building that faces route 7, very visible. The other sign has been up for a while and is probably out of compliance and just wants to replace it now to be more in compliance, per Ms. Clark.

The second sign is on the side of the building which faces route 7, so it's very visible. But when you make that turn and you're coming the other way on Albany Street you're not going to see that sign, so it's important that the free-standing sign shows her business name. It's a busy road so she just wants to replace what is already there, said Ms. Clark.

Commissioner Connelly asked if the sign will be the same size? Ms. Clark responded will be same size with approximately 2 inches smaller than existing sign that is there.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

SEQR RESOLUTION

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

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Mr. Keller, to approve the installation of second sign based on the following:

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

Motion carried unanimously.

Mr. Gleason read the following area variance at once for the commission consider (8:05 audio file):

- B. Vinod Brian Jagnath** requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an "R-2" Two-Family Residential District, to expand the existing building by 910 square feet, a 43.3% expansion where 10% is allowed, pursuant to Section 264-87 A.
- C. Vinod Brian Jagnath** requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an "R-2" Two-Family Residential District, to expand the existing building by 910 square feet, a 41.6% increase where 30% is allowed, pursuant to Section 264 Attachment 3 Schedule C.
- D. Vinod Brian Jagnath** requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an "R-2" Two-Family Residential District, to expand the existing building by 910 square feet, requiring a 11 feet rear setback where 15 feet is required, pursuant to Section 264 Attachment 3 Schedule C.

E. Vinod Brian Jagnath requests a use variance for 743 Strong St. (tax parcel #49.40-1-14), located in an “R-2” Two-Family Residential District, to use the property for used car sales, pursuant to Section 264 Attachment 1 Schedule A.

Dave Kimmer from ABD Engineers and Attorney Andrew Healy representing the applicant, Mr. Vinod Brian Jagnath, requested 3 area variances, 1) to expand existing building by 910 square feet, a 43.3% expansion where 10% is allowed, 2) by 910 square feet, a 41.6% increase where 30% is allowed, and 3) 910 square feet, requiring a 11 feet rear setback where 15 feet is required. In addition, a request to use property for used car sales.

Mr. Kimmer: “The property in question has always historically been used as an automotive repair and sales business. Brian is registered with the DMV to sell cars and repair them. And I’ve got, I’ve just got some photos of what the place used to look like before Brian fixed it up, and what it looked like after he fixed it up. A historical photo of the property being used as a car dealership. And a copy of his licenses to sell cars from the DMV.”

Mr. Kimmer provided the photos and documentation for the Commissioners to view.

Attorney Healy: “So, while you’re looking at the photograph, part of the reason for the area variance for the building addition is to allow Brian to actually store the parts for his automobiles when you repair them [to Brian] inside. The city code does not allow for storage of those automobile parts, tires in the exterior of the property. So, the additional building will allow for that storage, allow him to be able to continue to repair the cars and obviously he’s looking for the ability to be able to sell those cars off of his lot. These are cars that he traditionally purchases, repairs them himself and then sell them to the public to allow them to have an affordable form of vehicle. As David mentioned, historically, this property has always had the ability to [sell cars], whether it was allowed by city code or not at the time.”

Mr. Kimmer went on to talk about how the business is not a large operation and it was determined that there are about 2-4 cars for sale on the property at any time.

Commissioner Connelly asked what the turnover on cars is generally for the business and how many people work at the business. The applicant responded that the work is done by him and his son and that they work on only 2-3 cars per day.

Commissioner Gleason asked if there will be bodywork completed for the cars. The applicant responded, not much, mostly auto repair. Will not do frame and painting, strictly auto repair.

Commissioner Connelly asked if the applicant was planning on having a paint booth. After some clarification from his representation, it was determined that there would not be painting and it was strictly for auto repair.

Commissioner Gleason also asked about hours of operation, business hours will be 8 a.m. to 6 p.m., weekends and no Sundays, the business has been there since 2014, per the applicant.

Commissioner Connelly asked how they heat the building and the applicant replied that he used gas heat.

Commissioner Gleason informed the applicant and his representative they could return to their seats and the board went on to render their decision.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

Commissioner Gleason closed the hearing to public comments and proceeded for commissioners to discuss the application. He then asked Attorney Marney to discuss the history of this parcel regarding.

Attorney Marney (17:33 audio file) “So the matter is currently in court. It was for specific violations with respect to the operation of auto body or auto repair shops. At that point, it was discovered that we site planning was required. It was also discovered that they were conducting sales on the premises as well, which is not a permitted use. So, this process through the BZA and through the site plan commission will be what determines the resolution and the court case. In terms of the history for the parcel. You know, we don't have anything to indicate that the auto sales would constitute a preexisting non-conforming use. Specifically, a use variance has already been granted on this property in 2003. And it's specifically noted as a condition that auto sales are not permitted on the site. So, I believe Nora [Zoning Officer] had looked into this auto sales have been a non-permitted use in that district, from the eighties forward.”

There was a brief conversation in which the Commissioners confirmed that the current use variance for the property specifically did not include sales.

E. Vinod Brian Jagnath requests a use variance for 743 Strong St. (tax parcel #49.40-1-14), located in an “R-2” Two-Family Residential District, to use the property for used car sales, pursuant to Section 264 Attachment 1 Schedule A.

USE VARIANCE DENIAL

Motion by Mr. Connelly, seconded by Mr. Keller, to deny use variance based on the following facts:

Mr. Connelly made motion, stated, “negative declarations unlisted action pursuant to SEQR based on the review and assessment of the short environmental assessment forms parts one and two. The negative declaration being set forth in Part Three, the short environmental assessment form.

So, move at this time that the board deny the use variance request for 743 Strong Street located in an “R-2” tourist, Two-Family Residential District to use the property for use prior sales pursuant to section 242 64 detachment one schedule A. I make this motion based on the finding of fact:

- The alleged hardship is self-created.
- The applicant has not demonstrated that he could not realize a reasonable return any of the allowed uses and the variance would alter the essential character and the variance is denied.

Motion carried unanimously to deny application.

B. Vinod Brian Jagnath requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an “R-2” Two-Family Residential District, to expand the existing building by 910 square feet, a 43.3% expansion where 10% is allowed, pursuant to Section 264-87 A.

AREA VARIANCE DENIED

Motion by Mr. Keller, seconded by Mr. Connelly, to deny application based on the following of facts:

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

Motion carried unanimously to deny application.

C. Vinod Brian Jagnath requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an “R-2” Two-Family Residential District, to expand the existing building by 910 square feet, a 41.6% increase where 30% is allowed, pursuant to Section 264 Attachment 3 Schedule C.

AREA VARIANCE DENIED

Motion by Mr. Keller, seconded by Mr. Connelly, to deny application based on the following of facts:

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

Motion carried unanimously to deny application.

D. Vinod Brian Jagnath requests an area variance for 743 Strong St. (tax parcel #49.40-1-14), located in an “R-2” Two-Family Residential District, to expand the existing building by 910 square feet, requiring a 11 feet rear setback where 15 feet is required, pursuant to Section 264 Attachment 3 Schedule C.

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- An undesirable change will be produced in the neighborhood.
- The benefit sought by the applicant can be achieved by another method.

- The variance is substantial.
- There will be an adverse effect on physical or environmental conditions in the neighborhood.
- The alleged hardship is self-created.

Motion carried unanimously to deny application.

VI. Other Business – none

VII. Adjourned 6:54 p.m.

