

**City of Schenectady
Board of Zoning Appeals
Meeting Minutes
April 1, 2020**

I. CALL TO ORDER

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 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 Connelly; Mary D'Alessandro-Gilmore; Helene Lester; Krystina Smith; Avi Epstein, Neighborhood Stabilization Coordinator; Jennifer Mills, Secretary

ABSENT: Fred Clark; Brendan Keller

III. CONFLICT OF INTEREST CHECK

None.

IV. APPROVAL OF MEETING MINUTES

Motion by Mr. Connelly, seconded by Ms. D'Alessandro-Gilmore, to approve the Minutes of the March 4, 2020 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. SUSAN MCCANN on behalf of Hamilton Hill LLC, requests area variances for 831Albany Street (49.33-5-61.1) located in the C-2 Mixed Use Zoning District, to allow for parking stall depths of 18 feet, 2 foot setbacks from the adjacent property line, and to extend the parking frontage beyond 70 feet without providing a public feature as required pursuant to Chapter 264 of the City Ordinance.

Kelsey Carr of the Chazen Companies presented the application.

Ms. Carr explained briefly reviewed the application and explained that in building the new parking lot to service the apartment building and laundromat

they would like to discourage loitering and illegal activity and thus would like the parking area to be as open and visible to the street as possible. Ms. Smith asked if there is a lot of foot traffic in the area. Ms. Carr replied that there is, and there have been problems with loitering in the previous parking lot operated on the site. Mr. Epstein asked if there is any new lighting proposed for the lot. Ms. Carr responded that three new light poles will be installed so that the lot is fully illuminated at night.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Connelly stated that he would have no objection to the variances as their implementation will improve the neighborhood rather than detract from it. 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 impacts on the environment.

Motion carried unanimously.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Ms. Smith, to approve the Area Variances 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.

B. JAMES CZUB & GLORIA CZUB request a use variance for 1545 Broadway (49.37-1-21) located in the C-2 Mixed Use Commercial Zoning District, to allow for the sale of motor vehicles which is prohibited pursuant to Schedule B of the Zoning Ordinance.

James Czub and Charlie Morris, Mr. Czub's son-in-law, presented the application.

Mr. Czub explained that he has operated a car repair business in the City for 48 years and has been at this location for 40 years. He stated that he would like to retire and has put the property on the market for sale several times over the last five years but has had no offers. He stated that he now has a potential buyer for the property who would like to run a repair business and sell cars from the site. Mr. Czub stated that he had only recently become aware that auto sales are not permitted on the property. He explained that the prospective buyer currently runs an auto sales business in Colonie, and operates a very reputable, high-quality business, which he would like to expand when moving to this larger site.

Mr. Epstein asked Mr. Czub to elaborate further about his attempts to sell the property and why he believes that he will only be able to realize a reasonable return with a variance. Mr. Czub stated that over the last five years he has listed the property for sale three different times with three different brokers but has never received any offers. He noted that in retrospect he believes that there might have been some prospective buyers who lost interest and did not make an offer on the property because they found out through their own research that cars sales are not allowed on the site. Mr. Czub stated that he had originally listed the property at \$275,000, and then had reduced it twice. He stated that the current offer on the property is for \$140,000. He explained that due to changes in technology and the general nature of the auto repair business it has become very difficult to sustain a business offering auto repair services only.

Ms. Smith stated that in order to approve a use variance there are very strict standards that the Board must be able to prove that the applicant has met. She explained that she was trying to clarify that Mr. Czub could not realize a reasonable return without the variance. She asked Mr. Czub when he had originally listed the property for sale. Mr. Czub replied that he had listed it in 2014 for \$275,000. Ms. Smith asked if the property was continuously left on the market since 2014. Mr. Czub stated that it was not. He explained that he relisted it in 2015 and 2017, both times at \$225,000. Ms. Smith asked if the current buyer approached Mr. Czub when the property was not on the market and offered \$140,000. Mr. Czub confirmed that this was correct.

Ms. Smith asked if there are any special characteristics of the property that prevent it from being operated as any of the other allowed uses. Mr. Czub stated that it has been an auto repair business since the 1940s. He explained that it is a very large lot, and he used to repair cars and lease Ryder trucks from the site many years ago and did so without having any negative impact on the surrounding neighborhood.

The Board Members and staff discussed whether or not it would be allowable for them to place a limit on the number of cars offered for sale on the site at any one time. Mr. Epstein stated that yes, conditions may be placed on the

variance, which should be granted for the smallest amount necessary. Mr. Czub stated that the property can easily hold 30 cars. Mr. Connelly stated that if the business would also be offering auto repairs, they would have to consider space for those cars as well. Mr. Epstein stated that if the variance was granted any new business would still have to go before the Planning Commission for site plan review, at which time issues like landscaping, parking layout, and traffic patterns on the site would be reviewed.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Connelly stated that he does not believe that the board has been given enough information to support the criteria for granting the variance. Ms. Smith agreed, stating that while she believes that she could make the argument that the reasonable return standard has been met, she does not feel that the Board has been provided enough concrete evidence to support that argument if necessary. Mr. Connelly stated that he believes that Mr. Czub is on the right track with his application but that more information is needed regarding the financial details and the actual layout of the site and how it would be used for auto sales. Ms. D'Alessandro-Gilmore asked Mr. Czub if he has a signed offer on the property contingent on the variance being granted. Mr. Czub stated that there is a purchase agreement that has been written up by his attorney, but it has not been signed by either party yet.

The Board members and Mr. Czub discussed the DEC letter attached to the application. Mr. Morris explained that the DEC does not issue letters stating that a property is considered completely clean of environmental contaminants in order to legally protect themselves, but that they had found only historical contaminants on the property which would be expected after so many years of operation. Mr. Czub stated that he had stopped selling gas in 1998 and had removed the tanks at that time. He stated that they had not leaked at all prior to removal.

Mr. Connelly explained to Mr. Czub that the Board is required by State Law to be able to prove that an application has met specific criteria for a use variance, or they could be subject to lawsuits brought by neighbors or other prospective applicants. He stated that he would need to see a more detailed supporting financial statement, as well as further information showing that the property could be used for auto sales without having a negative impact on the neighborhood. The other Board members agreed. Mr. Epstein stated that he would follow up with Mr. Czub and explain to him specifically what information could be helpful to help make his application more

comprehensive. Mr. Gleason stated that he would entertain a motion to table the application pending the submittal of further information.

MOTION TO TABLE

Motion by Mr. Connelly, seconded by Ms. D'Alessandro-Gilmore, to table the application pending the submittal of further necessary information as communicated to the applicant by Mr. Epstein, Neighborhood Stabilization Coordinator.

Motion carried unanimously.

VII. MOTION TO ADJOURN

Motion by Mr. Connelly, seconded by Ms. D'Alessandro-Gilmore, to adjourn the meeting.

Motion carried unanimously.

The meeting was adjourned at 7:25 p.m.