

**City of Schenectady
Board of Zoning Appeals
Meeting Minutes
June 3, 2020**

I. CALL TO ORDER

Mr. Gleason called the meeting to order at 6:35 p.m.

Due to the closure of City Hall because of the Covid-19 Virus, the meeting was conducted online via WebEx.

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; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Neighborhood Stabilization Coordinator; Jennifer Mills, Secretary

ABSENT: Fred Clark

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 May 6, 2020 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. DAMIEN PINTO-MARTIN on behalf of REDBURN DEVELOPMENT requests an area variance for 132-136 Broadway (39.72-2-42 & 37.72-2-43) located in the C-4 Downtown Mixed Use Commercial zoning district, to allow an 11 unit apartment building to provide 0 parking spaces where 16 spaces are required pursuant to Schedule F of the Zoning Ordinance.

Damien Pinto-Martin, Vice President of Development for Redburn Development, Jeff Buell, Principal of Redburn Development, and Joe

Perniciaro, Development Associate for Redburn Development, appeared before the Board.

Mr. Perniciaro explained that Redburn is in the process of developing the former Gazette press building into eleven market rate residential units and an event space. He stated that while there is no onsite parking the site is surrounded by many municipal and private parking lots, as well as on-street parking. He noted that Redburn supports Schenectady's goal of creating a walkable downtown and operates many other residential buildings downtown that do not offer onsite parking. Mr. Perniciaro stated that the municipal lots nearby offer free parking from 5:30 p.m. to 8 a.m. and on weekends, the times which would be in the highest demand for most tenants who work outside the home during the day. He added that adding parking spaces or lots to the downtown area is not something that he believes supports the common goals of the City and Redburn Development.

Mr. Connelly asked Mr. Perniciaro how many people the event space will hold. Mr. Perniciaro responded that it will have a maximum capacity of approximately 250 people. Mr. Epstein noted that there is no parking requirement for commercial spaces in the downtown zoning district. Mr. Gleason asked Mr. Perniciaro if the residents will have access to the municipal lots 24 hours a day. Mr. Perniciaro responded that they will not and that the access would be limited to weekends and 5:30 p.m. to 8 a.m. during the week.

Ms. D'Alessandro-Gilmore asked if Mr. Perniciaro had an estimate of what the rents would be for the apartments. Mr. Perniciaro responded that the rates have not been decided yet, but as an example a 1,000 square foot apartment might start in the \$1300 per month range. Ms. Smith stated that she is concerned that now that more people are working from home, and some might continue to do so in the future, there will be more of a need for daytime parking than the applicants anticipate. Mr. Perniciaro stated that in addition to the on-street around the area there are lots that have paid parking available. Ms. Smith commented that there is not a lot of available on-street parking in that area of Broadway.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Connelly stated that his concern is the same as that which was raised by Ms. Smith, that demand for daytime parking might be on the rise if more people start working from home, and there is not a lot of on-street parking

available in that immediate area. He noted that when the Board has granted area variances for lack of parking in the past it was in areas that had significantly more on-street parking available. The other Board Members agreed. Mr. Keller stated that despite his concerns he is also of the opinion that the downtown area does not need more parking lots. Mr. Pinto-Martin commented that Redburn's typical tenant pool does not have an issue with the lack of onsite parking, and it has not affected their ability to rent apartments in other downtown buildings. He noted that there is on-street parking a few blocks away, and the tenants will have access to the loading dock for the unloading of furniture, groceries, etc. Mr. Keller commented that the Board could make it a condition of the variance that the tenants have access to the loading dock. Mr. Connelly questioned whether a condition would be necessary as Mr. Pinto-Martin had already indicated that the use of the dock would be part of the rental agreement with the tenant.

Mr. Epstein noted that in the decision letter from the site plan approval for the site the Planning Commission had stated that they support the granting of the area variance, as it supports the City's goals for the development of downtown, and there are plenty of alternative parking sites and transportation options available. He read the specific portion of the decision letter to the Board and noted that the Department of Development has been working for quite some time to eliminate the requirement for residential parking in the downtown area. Mr. Epstein also noted that the applicant has worked with Metroplex in the past to secure a shared parking agreement for tenants, and Metroplex has indicated that they would be willing to do the same for this site should it become necessary.

SEQR RESOLUTION

Motion by Mr. Connelly, 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.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Ms. D'Alessandro-Gilmore, to approve the Use 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.

B. BYRON DIAZ requests a use variance for 1 Cheltingham Avenue (49.7-1-10) located in the R-1 Single Family zoning district, to allow for a two-family home which is prohibited pursuant to Schedule A of the Zoning Ordinance.

Byron Diaz and Dan Gaudio appeared before the Board.

Mr. Gaudio explained that Mr. Diaz bought the property last year and at that time was unaware that the area had been rezoned to single family. He stated that because the house was previously used as a two-family residence Mr. Diaz thought that this was an allowed use and began renovating the building as such. He explained that it was only after Mr. Diaz received a stop work order from the City that he was informed that only single-family residences are allowed in this area.

Ms. D'Alessandro-Gilmore asked if Mr. Diaz used a Realtor when he purchased the property. Mr. Gaudio stated that he did not, but rather purchased the building directly from the former owners for \$15000, a portion of which was used to pay the outstanding taxes due on the property. Mr. Diaz stated that before it remained vacant for some time the property was clearly used as a two-family residence, as there are separate entrances and electric services for two units. Mr. Epstein noted that the property is listed as a two-family residence on the City assessment records, so it was most likely a two-unit building in the past. Mr. Gaudio noted that there are several other two-family homes on the street.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Connelly stated that the neighborhood is a mix of single-family, two-family, and even three-family homes, but he does not believe that Mr. Diaz has proven that the hardship is not self-created. Ms. D'Alessandro-Gilmore asked Mr. Epstein when the area was rezoned. Mr. Epstein responded that it has been single family since 2008. Ms. Smith stated that while she does not believe a two-family home is out of character for the neighborhood she does not believe that Mr. Diaz has proven that his hardship was not self-created as he admitted that prior to purchasing the property he did not do his due diligence and make sure that the property could be used as a two-family home. Mr. Epstein stated that in order to grant a use variance it is necessary that the application meet all four of the legal criteria, including proving that the hardship is not self-created. Mr. Keller stated that he did not see a way that

the Board could grant a variance given the circumstances. The other Board Members indicated that they agreed.

SEQOR RESOLUTION

Motion by Mr. Keller, seconded by Mr. Connelly, to adopt a Negative Declaration on this unlisted action pursuant to SEQRA based upon the review and assessment of the Short Environmental Forms Part 1 and 2, with the Negative Declaration being set forth in Part 3 of the Short Form Environmental Assessment Form.

Motion carried unanimously.

USE VARIANCE DENIAL

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

1. The alleged hardship is not self-created. When the applicant purchased the property, the two-family use was not grandfathered, and the applicant has admitted that he did not do his due diligence to find out whether or not the property could be used as a two-family dwelling under the current zoning code.

Motion carried unanimously.

VII. MOTION TO ADJOURN

Motion by Mr. Connelly, seconded by Mr. Keller, to adjourn the meeting.

Motion carried unanimously.

The meeting was adjourned at 7:21 p.m.