

**City of Schenectady  
Board of Zoning Appeals  
Meeting Minutes  
June 11, 2020**

**I. CALL TO ORDER**

Mr. Connelly called the meeting to order at 6:08 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. Connelly 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:** David Connelly; Mary D' Alessandro-Gilmore; Helene Lester; Krystina Smith; Avi Epstein, Neighborhood Stabilization Coordinator; Jennifer Mills, Secretary

**EXCUSED:** James Gleason, Chair; Brendan Keller

**ABSENT:** Fred Clark

**III. CONFLICT OF INTEREST CHECK**

None.

**IV. APPROVAL OF MEETING MINUTES**

Motion by Ms. D' Alessandro-Gilmore, seconded by Ms. Smith, to approve the Minutes of the June 3, 2020 meeting as submitted.

*Motion carried unanimously.*

**V. NEW BUSINESS - APPLICATIONS**

**A. DAMIEN PINTO-MARTIN on behalf of REDBURN DEVELOPMENT requests a use variance for 1 North Church Street (39.63-1-41.1) located in the RH-2 Stockade Historic Residential zoning district, to allow for the conversion of a hotel and banquet hall into 23 apartments and one office which is not allowed pursuant to Schedule F of the Zoning Ordinance.**

Jeff Buell, Principal of Redburn Development, and Damien Pinto-Martin, Vice President of Development for Redburn Development, appeared before the Board.

Mr. Buell explained that his company had looked into purchasing the building several times in the past, but the price had been too high for their intended development. He stated that he had read the letters in opposition to the project that had been submitted by members of the public and is aware of their objections. He noted that his firm has decided that they would be willing to retain some space on the first floor of the building for a leasable bar/lounge space, as well as reducing the number of apartments in the existing attic space from three to two. Mr. Buell stated that he would not object if these revisions were added as conditions to a variance, should it be granted. He added that he has spoken to both the current and former owners about the use of the space as an Inn and he does not believe that this use would be a realistic, nor financially feasible, option at this time. He explained that Redburn owns 26 buildings in the Stockade and is committed to being a positive and responsible presence in the neighborhood.

Mr. Connelly asked about available parking on the site. Mr. Buell responded that there are two lots that are deeded with the building and they would have significantly more parking than is required. Ms. Smith commented that she would have liked the opportunity to speak with the current owner of the property so that she could have asked him some questions regarding the economic viability of the property as a hotel. She added that she does not feel that the projections for future business included in the application are enough evidence to speak to the question of whether or not it would be possible to obtain a reasonable return within the allowed uses, including under the allowed use variance that has allowed the hotel to operate since 2003. Mr. Buell commented that he can state that the current owner is taking a significant loss on the property, as he purchased it for over \$1 million and Redburn's current purchase offer is for \$545,000. He stated that he could understand Ms. Smith's concerns but believes that it is significant that the prior owners (the McDonalds) had the property on the market for almost five years with no offers and the current owner could not maintain a sustainable business for even six months. Mr. Buell stated that the letter from Mr. McDonald outlined the significant financial hardship facing anyone who owns the building without the ability to have apartments. Ms. Smith stated that unfortunately she cannot ask the owner any questions about how the business was most recently run, as there could very likely have been extenuating circumstances or unique problems that led to its demise. She asked Mr. Buell if he knew if the business had failed before the fire in January 2020. Mr. Buell responded that the building was for sale before the fire, and he had looked at it before, both with Mr. McDonald and the current owner. He stated that after the fire the current owner contacted him again and was more willing to negotiate on the price. He explained that it was only at this time that he felt

that the project might be a viable one for Redburn, given the significant reduction in the asking price.

**PUBLIC COMMENTS IN FAVOR**

A letter of support for the application from Jeff McDonald, former owner of the Stockade Inn and Schenectady resident, was entered into the record. Ray Gillen, Chairman of Metroplex Development Authority, spoke in favor of the application, stating that Metroplex believes that Redburn has a great reputation as a developer within the City and this would be the best use for the building at this time.

Jack McDonald, former owner of the Stockade Inn and Schenectady resident, spoke in favor of the application, stating that his business was profitable for the first five years but then for the last ten years was very difficult to sustain due to increased competition and changing customer habits.

**PUBLIC COMMENTS IN OPPOSITION**

The following City residents submitted letters in opposition to the application which are part of the public record. In summary, they noted concerns regarding density of the units, the unsuitable nature of this project for this building, the applicant's failure to prove that the property would not be viable as a hotel, and the applicant's failure to prove that the hardship in this case has not been self-created.

Gloria Kishton, resident of 207 Union Street and Chair of the Schenectady Heritage Foundation.

Suzanne Unger, resident of 216 ½ Union Street and President of the Stockade Neighborhood Association.

Christopher Marney, resident of 205 Union Street.

Susan Tyler, resident of the Stockade.

Harold and Debbie Schneiderwind, residents of the Stockade.

Lawrence and Christina Caruso James, residents of the Stockade.

Jasmine Roberts and Nicholas Antolino, residents of 156 Front Street.

Marjorie Caruso, resident of Front Street.

Mary Zawacki, resident of 122 North Ferry Street and Executive Director of the Schenectady County Historical Society at 32 Washington Avenue.

Lawrence Schmidt, resident of 11 Front Street.

Lidia Pasamanick, resident of 22 Front Street.

David Giacalone, resident of 16 Washington Avenue #3.

Sylvie Briber, editor of The Stockade Spy and resident of 23 Washington Avenue.

Dave Lowry, resident of 29 North Ferry Street.

Meredith Runkel, resident of the Stockade.

Suzanne Unger, resident of 216 ½ Union Street and President of the Stockade Neighborhood Association spoke in opposition to the application. Ms. Unger noted that the City's 2020 comprehensive plan has a stated goal of reducing

the density of housing in the Stockade and restoring multi-family buildings to single-family homes whenever possible. She stated that this development would be in direct conflict with that goal. She added that the Association believes that adding 23 new residential units to a neighborhood that is already 80% rental units would have a negative effect on the neighborhood, and that she does not believe that the applicant has presented a compelling case that the hotel could not realize a reasonable profit if it were run correctly.

Jackie Craven, City resident, owner of 137 Front Street, and former member of the Schenectady Historic District Commission (2009-2019) spoke in opposition to the application. She stated that she believes that the conversion of this building to residential units would have a negative effect on the neighborhood, as commercial businesses like hotels and restaurants are part of a thriving city neighborhood and are a necessary part of the fabric of the community. She added that the City administration could take a proactive approach and try to foster a partnership with SUNY Schenectady's Culinary Arts Program as has been done in other college communities where the college takes over the operations of a local business and uses it as part of their educational programming.

Jasmine Roberts, resident of 156 Front Street, spoke in opposition to the application. She stated that she does not believe that the current owner of the business tried to run it well, explaining that she had contacted him multiple times about having her wedding there and he did not return her call for three weeks. She stated that she does not believe that the applicant has proven that the hotel and restaurant could not be a profitable business if it were run properly.

Cecile Stewart, resident of the Stockade, spoke in opposition to the application. She also stated that she believed that the current owner had not run the business properly and did not make a good faith effort to make it work.

Christopher Marney, resident of 205 Union Street, spoke in opposition to the application. He stated that the burden for being granted a Use Variance is extremely high and, as he argued in his submitted letter, he does not believe that the applicants have met that criteria. He added that if the applicants feel that this property is inappropriately zoned, they also have the option of reaching out to the City Council and attempting to have the property re-zoned.

Susan Bring, Vice President of The Schenectady Heritage Foundation, spoke in opposition to the application. She explained that she is a musician who often works out of town and when she mentions to people where she is from they would often mention the Stockade Inn and how much they enjoyed staying there or attending events at the site. She stated that she does not believe that the applicant has proven that the property could not be sustained as a hotel and restaurant if it were run properly, which she does not believe the current owner made any attempt to do over the six months that he operated the business.

James Addison of 48 Washington Avenue asked for some clarification about the details of the proposed plan. He asked if the bar and restaurant area that

Mr. Buell mentioned would be operated in what was shown as the 1,100 square foot lobby space on the plans, and if the current restaurant spaces would be used for apartments. *Mr. Buell responded that he was correct; that is the revised proposal.* Mr. Addison commented that he does not believe that this plan would offer adequate space for a lounge/eating area and kitchen facilities.

Chris White, resident of 205 Union Street, also spoke in opposition to the application. He stated that he does not believe that the period of the last year is enough to judge the viability of the property as a hotel and restaurant, especially after the fire and subsequent Covid-19 Quarantine.

Joe Fava, resident of 27 North Ferry Street, stated that he has not decided if he is opposed to the application, but he does not feel that the applicant has offered enough evidence to support the granting of a Use Variance. He added that he lives next door to a Redburn-owned property and is not happy with how it is managed, echoing similar concerns raised by some residents in their letters that were submitted for the record.

Gloria Kishton, President of The Schenectady Heritage Foundation and resident of 207 Union Street, spoke in opposition to the application. She stated that while the Foundation has given Mr. Buell preservation awards in the past and she does have confidence in him as a responsible developer she does not believe that there is sufficient evidence in the application to support the variance. She added that while some have been comparing this project to other apartment developments in the downtown area, she believes that it is important to remember that this building is not in the downtown district but in an historic residential neighborhood.

Nicholas Antolino, resident of 156 Front Street, spoke in opposition to the application. He stated that he came to Schenectady as a graduate student and stayed at the Stockade Inn when he first visited, and subsequently was a regular customer there after he became a Stockade resident. He stated that he does not believe that the applicant has provided sufficient proof that the business could not realize a reasonable return if it were run properly.

Ariella Rutbeck-Goldman stated that she is not in opposition to the project but is currently a renter in a Redburn building and has concerns about the potential new apartments driving up rents in other buildings. She asked Mr. Buell what the size and approximate rental prices of the units would be. *Mr. Buell responded that the units would be offered at a market rate of \$800-\$1200 per month and would not be luxury units. Mr. Pinto-Martin added that the apartments would range in size from 550 to 1050 square feet, depending on where they are located in the building.*

### **CONTINUED DISCUSSION**

Ms. D'Alessandro-Gilmore stated that having the Stockade Inn as a part of the Stockade was wonderful, but she does not believe that it could be a viable business model in these times and based on the letter from Mr. McDonald. She stated that while it is not an impossible idea, she does not believe it is at all probable during these times, especially given the current financial climate.

She added that she believes that by preserving some space for the restaurant/lounge the applicants have made some attempt at a compromise. Ms. D'Alessandro-Gilmore asked Mr. Buell if they had considered condo units. Mr. Buell stated that they had not, as their business model is to hold apartment buildings as long-term investments in excess of twenty years, but if down the road the condo market changes, they might revisit the idea.

Ms. Smith stated that as an attorney she keeps going back to the legal criteria for the variance under New York State law, and she does not believe that the applicant has met the criteria. She stated that she is not convinced that a reasonable return cannot be realized under the allowed uses, and she does believe that a residential use of this density would have a negative effect on the neighborhood. Ms. Smith added that the applicant does have the option of seeking out a zoning change for the property if they feel that they can prove that it was erroneously zoned.

Mr. Connelly stated that he agreed with a lot of Ms. Smith's points. He stated that he is uncertain whether or not the burden of proof has been met regarding the property's lack of viability as a hotel and restaurant. He explained that the Covid-19 situation is not something that he feels necessary to consider, as it is something that everyone is dealing with and will have to deal with the effects of into the near future. Mr. Connelly stated that he disagrees with the idea that the proposal conflicts with the Comprehensive Plan, however, as he does not believe that the plan should be set in stone as no one who was developing it could see into the future and know exactly what changes the neighborhood, and the City as a whole, would have gone through by this time.

With Mr. Connelly's permission Mr. Pinto-Martin gave a brief explanation of how he arrived at the financial projections submitted in the application. Seeing no further discussion from the board members, Mr. Connelly called for a motion.

#### **SEQR RESOLUTION**

Motion by Ms. Smith, seconded by Ms. Lester, 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**

Ms. Smith made a motion to deny the Use Variance. Because there was no second the motion failed.

Mr. Connelly entertained an attempt at a second motion from the board.

**USE VARIANCE APPROVAL**

Motion by Ms. D'Alessandro-Gilmore, seconded by Ms. Lester, to approve the Use Variance based on the following findings of fact:

1. The property cannot yield a reasonable return within the allowed uses as currently configured.
2. The alleged hardship is unique and does not apply to a substantial portion of the neighborhood. The size of the building is substantially larger than most others. Other buildings of a similar size already supply multi-family units.
3. The character of the neighborhood will not be altered.
4. The alleged hardship is not self-created.

And with the following condition:

1. As stated, the applicant will retain a portion of the first floor (1,100 S.F) as a space that can be leased as a small bar/restaurant.

*Motion failed, with Ms. Smith opposed. Motion results in a default denial under GCL-5A.*

**VII. MOTION TO ADJOURN**

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

*Motion carried unanimously.*

The meeting was adjourned at 7:29 p.m.