

City of Schenectady
Board of Zoning Appeals
Meeting Minutes
April 6, 2022

I. CALL TO ORDER

Mr. Gleason called the meeting to order at 6:34 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.

II. ATTENDANCE

PRESENT: James Gleason, Chair; David Connelly; Helene Lester; Fred Clark
Avi Epstein, Zoning Officer

EXCUSED: Brendan Keller, Mary D' Alessandro-Gilmore

III. CONFLICT OF INTEREST CHECK

None.

IV. APPROVAL OF MEETING MINUTES

Mr. Epstein stated that the March BZA minutes were pending some minor edits and would be ready for review and formal approval at the next meeting.

V. APPLICATIONS

- A. John Roth, Owner of 133 Edison Ave, LLC**, requests an area variance for 129 & 133 Edison Ave (49.23-2-36 & 49.23-2-37), located in the M-1 Light Industrial zoning district, to allow for a 3ft side yard setback, where a minimum setback of 10ft is required pursuant to Schedule C of the zoning ordinance.

Luigi Palleschi presented the application on behalf of John Roth. The applicant stated he was requesting an area variance for the side setback to allow the building to be three feet from the northern property line. The applicant appeared before the planning commission in January for site plan approval which was granted with a condition that an area variance be obtained.

The site currently is an 11,000 plus or minus square foot building. The building follows a train track to the North. The new proposal includes demolishing the

existing building and proposing a 10,000 plus or minus square foot building in its place.

They will be making the building footprint a little smaller than what's in existence now. Applicant will maintain the 10-foot required side setback on the south side, because there's an existing creek there.

The applicant stated that there are no neighbors that would be affected by the request.

The applicant noted the existing curb with parking in the front yard area and that everything will be modified and brought up to city code.

Mr. Connelly asked the applicant about the tractor trailer access in the loading dock and if there will be room there to turn around.

The applicant stated that the loading dock will have a 35-foot-wide curb cut to allow them to get in and out and is built for the purpose of the warehouse. He also indicated that warehousing is in high demand and that its good opportunity to remove a building and bring it up to current codes.

Mr. Connelly asked about the railroad tracks and the applicant responded the tracks are to the north of the property line and owned by the railroad.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Members of the Board agreed that this reduction in parking spaces was a positive thing and that an area variance was appropriate.

SEQR RESOLUTION

SEQR was performed during Planning Commission review and no further action is necessary.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Ms. Lester, to approve the area variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood. The use remains the same and setback will have no effect on adjacent land owners.
2. The benefit sought by the applicant cannot be achieved by another method, as the lot is highly irregular in its configuration. The applicant

has designed the site to meet the code in every other regard to the best extent possible.

3. The variance is not substantial. It's a difference of 7 feet.
4. There will not be an adverse effect on physical or environmental conditions in the neighborhood. The project will result in a smaller building footprint, more landscaping and better drainage.
5. The alleged hardship does not constitute a self-created difficulty. The property has always been restricted based on the lot configuration.

Motion carried unanimously.

B. Zishe Babad, Owner of Hamilton Corner SSP, LLC, requests an area variance for 922 State St (49.33-5-32), located in the C-2 Mixed-Use Commercial zoning district to allow for an 18-unit apartment building to provide 2 off-street parking spaces, where 27 are required pursuant to 264-44, Schedule F of the zoning ordinance.

Robert Rosborough IV of Whiteman Osterman & Hanna LLP, presented the application. He noted that this application was needed since the shared parking agreement his client had with the owner of 900 State St fell through. This is the redevelopment of an existing building at 922 State Street, which is a corner of State and Steuben. It was previously used for the same use without off street parking.

The applicant noted that the BZA had previously approved the area variances for minimum lot area for 18 residential units and 100% impervious surface coverage.

Mr. Connelly asked for clarification regarding the shared parking agreement with neighbor and off-street parking and for 27 parking spaces. Applicant indicated the prior agreement was going to be an arrangement for 28 spaces.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Board members continued to discuss the history of the building and recalled that in September of 2021 it was mentioned that the building had been apartments since it was built in the 1900's. The building had one bedroom and/or studio apartments. The members went on to discuss the street parking.

SEQR RESOLUTION

SEQR was performed during Planning Commission review and no further action is necessary.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Ms. Lester, to approve the area variance based on the following findings of fact:

1. No undesirable change will be produced in the neighborhood. Property is located in the C-2 Mixed-Use district which affords a variety of transportation options.
2. The benefit sought by the applicant cannot be achieved by another method. There are no other options available for off-street parking within a reasonable distance of the building. Due diligence was made to obtain a shared parking agreement before requesting a variance.
3. The variance is substantial; however it mirrors a pre-existing nonconformity.
4. There will not be an adverse effect on physical or environmental conditions in the neighborhood. Higher density along a main corridor with minimum parking will increase pedestrian presence and reduce the need for automobiles.
5. The alleged hardship is not self-created, as the building has never had 27 off-street parking spaces and the lapse in the legal nonconforming status was due to the prior owner.

Conditions: Project must obtain final Site Plan Approval from the Planning Commission.

Motion carried unanimously.

- C. Fillipos (Phillip) Menagias**, requests a use variance for 2033 Broadway (48.59-3-32), located in the C-2 Mixed-Use Commercial zoning district, to allow for parking as an accessory use, which is not permitted pursuant to Schedule B of the zoning ordinance.

The applicant, Fillipos (Philip) Menagias, is the owner of the Broadway lunch. Mr. Menagias is trying to purchase 2033 Broadway for parking purposes for his employees.

He indicated that currently, the property is not being used and has been vacant for approximately eight years. He stated that parking would be an excellent use for the property because there is very little parking there now. The parking that is on his lot now only provides for 8 spaces. In addition, he stated most patrons park on the curb or where it's designated for employee parking.

Mr. Gleason asked the applicant if he planned to take down the building that is there and applicant responded there is not a building there now and it's a vacant lot. He

indicated there is a couple of potholes there, but nothing major, and they could be filled. He would probably sealcoat and pave the first half to the property line.

Mr. Connelly inquired about the tenants to the left of the building that would be coming out of the apartment. Mr. Connelly also inquired if this was previously a privately owned property that had some commercial component.

Mr. Epstein noted that the city currently owns the vacant lot and that we contacted the adjacent owners to see if they want to purchase property as the city tends to want to consolidate properties.

It was noted that neither owner of the adjacent properties has indicated interest in purchasing the property. There is a resolution by the City Council authorizing the sale of the property but contingent upon getting a variance.

The Board asked Mr. Epstein if the city had a specific use in mind for the property. Mr. Epstein commented, the city doesn't have any plans for the lot other than the resolution to sell the property to Mr. Menagias. Mr. Epstein noted that the BZA needs to remember that this application is for a use variance. He recommended that the Board look closely at the criteria to make sure the application meets all the requirements.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

The property is zoned C-2 Mixed-Use Commercial– there are a lot of uses, from retail to single family and multi-family residential that are technically allowed here.

Mr. Connelly asked if the property was buildable. Mr. Epstein stated the lot size is 41.3 feet wide and 120 in depth, so it's a buildable lot because the requirement would be 40 feet frontage. In addition, what gives the applicant standing is that he has a contract in place to purchase property.

The Board inquired if there would be any recommendations on site design by staff. Mr. Epstein, Zoning Officer, outlined a few recommendations based on similar sites. There is a city requirement that no parking space be within four feet of the sidewalk. There should also be a planted area on both sides when entering the lot to prevent people from parking in this area and adding a nice component for pedestrians. The parking spaces must be striped and will need barriers at the end of the parking space to separate from the adjacent property. A building permit can be obtained prior to work being done.

SEQR RESOLUTION

Motion by Mr. Connelly, seconded by Mr. Clark, to declare the project as an unlisted action and to adopt a Negative Declaration based upon the review and assessment of the Short Environmental Assessment Forms Parts 1 and 2, with the Negative Declaration being set forth in Part 3 of the Short Environmental Assessment Form.

Motion carried unanimously.

AREA VARIANCE APPROVAL

Motion by Mr. Connelly, seconded by Ms. Lester, to grant the use variance based on the following findings of fact:

1. The applicant cannot realize a reasonable return with the allowed uses. The property has been vacant for at least 8 years and no other offers or proposals have been made to the city for a use that is currently permitted.
2. The alleged hardship related to the property is unique. The prior building was demolished due to extensive damage and was never rebuilt. The parcel was then taken in foreclosure by the city and remained that way for years. This scenario is unique and does not apply to the district and neighborhood in any substantial manner.
3. The variance will not alter the essential character of the neighborhood. This does not represent a use that would be a detriment to neighbors or the community in general.
4. The alleged hardship is not self-created, as the parcel is still owned by the city and the creation of a vacant parcel was due to a fire that left the parcel vacant with limited uses for at least 8 years.

Conditions: Improvements to the lot must be approved by Planning Department staff and include the following:

1. Lot must be paved and or repaired to code
2. Landscaping must be installed at the front of the parking lot with two planting beds on either side of the entry way. Planting beds to serve as buffer between parking spaces and sidewalk.
3. Parking spaces to be striped
4. Parking spaces to include curb stops

Motion carried unanimously.

VII. MOTION TO ADJOURN

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

Motion carried unanimously.

The meeting was adjourned at 7:23 p.m.