

**City of Schenectady  
Board of Zoning Appeals  
Meeting Minutes  
August 4, 2021**

**I. CALL TO ORDER**

Mr. Gleason called the meeting to order at 6:33 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; Fred Clark; David Connelly; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Avi Epstein, Neighborhood Stabilization Coordinator; Jennifer Mills, Secretary

**III. CONFLICT OF INTEREST CHECK**

None.

**IV. APPROVAL OF MEETING MINUTES**

Motion by Mr. Connelly, seconded by Mr. Keller, to approve the Minutes of the July 7, 2021 meeting as submitted.

*Motion carried unanimously.*

**V. NEW BUSINESS - APPLICATIONS**

**A. HAMILTON CORNER SSP, LLC requests area variances for 922 State Street (49.33-5-32), located within the C-2 Mixed Use Zoning District, to allow for 18 residential units with a minimum lot area of 6,646 square feet and 100% impervious surface, where 22,500 square feet of lot area and 20% permeable surface is required pursuant to Schedule C of the zoning ordinance.**

Steve Musur and Zishe Babad presented the application.

The applicants briefly reviewed the additional information that they had submitted since the application was tabled at the July meeting. They explained that they had negotiated a shared parking agreement with a near-by

property owner and stated that the agreement was ready to be signed by both interested parties. Mr. Epstein noted that the City must be named as a third party on any shared parking agreements. The applicants indicated that they had no objection to presenting the agreement to the City Corporation Counsel for his consideration.

The applicants also reviewed the financial information submitted, explaining that the building would be operating at a loss if they were to be required to reduce the number of rental units. Mr. Epstein asked if they had considered removing any pavement on the site to add the required pervious surface, since they had a likely agreement for more parking than what is required. The applicants stated that they would prefer to provide onsite handicapped parking on the paved surface in question.

**PUBLIC COMMENTS IN FAVOR**

None.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

The Board Members discussed the application and indicated that they were satisfied with the additional information provided by the applicants. They noted that this building had most likely had eighteen units since it was built. Mr. Epstein noted that the applicants are required to receive site plan approval from the Planning Commission.

**SEQR RESOLUTION**

Motion by Mr. Connelly, seconded by Mr. Clark, to declare this project a TYPE 2 SEQR action, with no significant adverse impacts on the environment.

*Motion carried unanimously.*

**AREA VARIANCE APPROVAL**

Motion by Mr. Connelly, seconded by Ms. D’Alessandro-Gilmore, to approve the area variances based on the following findings of fact:

1. An undesirable change will not be produced in the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method.
3. There will not be an adverse effect on physical or environmental conditions in the neighborhood.
4. The alleged hardship is not self-created.

And with the following conditions:

1. The applicants will submit the required shared parking agreement to the City.
2. The project will receive site plan approval from the City Planning Commission.

*Motion carried unanimously.*

**B. ELECTRIC ERIE DEVELOPMENT requests a use variance for 1100 Erie Boulevard (39.64-1-7) and Pine Street (39.64-1-26), located within the C-4 Downtown Mixed Use Zoning District, to allow for a drive-in only restaurant which is not a permitted use pursuant to Schedule B of the zoning ordinance.**

Christopher Longo of Empire Engineering and Joe Caschera and Fabio Urbano of Electric Erie Development presented the application.

Mr. Longo briefly reviewed the proposed site plan and explained that the applicants had an agreement with Starbucks to open a drive-thru only store on the site, contingent on their obtaining the necessary use variance. The applicants stated that for several years they had attempted to market the property within the allowed uses but had had no success. They stated that they had not listed the property for sale with a broker, but rather had been marketing it themselves.

**PUBLIC COMMENTS IN FAVOR**

Kristen Caschera spoke in favor of the application, stating that the applicants have a positive track record of development in the City.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

The Board Members discussed tabling the application to give the applicants time to submit further evidence to prove that the hardship is not self-created, and that the property cannot realize a reasonable return without a use variance. Mr. Keller stated that regardless of how much time they are given he does not see how the applicants could meet the self-created hardship criteria.

**MOTION TO TABLE**

Motion by Mr. Connelly, seconded by Ms. D'Alessandro-Gilmore, to table the application as incomplete pending the submittal of further information, including the following:

1. Financial details showing that the applicants cannot realize a reasonable return without the use variance.
2. Further information regarding past attempts to market the property for use within the allowed uses.

3. Information supporting the criteria that the hardship is not self-created.

*Motion carried, with Mr. Keller opposed.*

- C. ANDREW BOODHAN requests an area variance for 2602 Campbell Avenue (48.50-1-31), located in the R-1 Single-Family Residential Zoning District, to allow for the installation of a 20’x26’ (520 square foot) carport, where a 50 square foot carport is allowed pursuant to Schedule C of the zoning ordinance.**

Andrew Boodhan presented the application.

Mr. Boodhan briefly reviewed his application, explaining that he would like to build a carport between his house and his garage to use for family gatherings and storage of yard equipment. He stated that the asphalt portion of the yard had been paved prior to his buying the property in 2017. Mr. Epstein stated that City records show that a permit to pave the yard was pulled in Mr. Boodhan’s name in 2020. Mr. Boodhan stated that he knew nothing about the permit.

**PUBLIC COMMENTS IN FAVOR**

None.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

The Board Members discussed the application and determined that the variance sought was too substantial, at ten times the allowed size. They also expressed concern regarding the negative impact the structure could have on surrounding neighbors due to water run-off from the large roof.

**SEQR RESOLUTION**

Motion by Mr. Connelly, seconded by Mr. Keller, to declare this project a TYPE 2 SEQR action, with no significant adverse impacts on the environment.

*Motion carried unanimously.*

**AREA VARIANCE DENIAL**

Motion by Mr. Connelly, seconded by Mr. Keller, to deny the area variance based on the following findings of fact:

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

3. The variance is substantial. The applicant is requesting permission to construct a carport that is over ten times larger than the allowed square footage.
4. There will be an adverse effect on physical or environmental conditions in the neighborhood.
5. The alleged hardship is self-created.

*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 8:00 p.m.