

City of Schenectady
Board of Zoning Appeals
Meeting Minutes
September 1, 2021

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; Brendan Keller; Helene Lester; 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 August 4, 2021 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. ELECTRIC ERIE DEVELOPMENT requests a use variance for 1100 Erie Boulevard (39.64-1-7) and Pine Street (39.64-1-7), 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.

The applicants reviewed the additional information that they had submitted since the application was tabled at the August meeting. Mr. Caschera explained the financial documents that they submitted, using an example of the financial viability of a mixed-use building. Mr. Keller questioned why the applicants chose this example and did not provide any alternative possible uses. The Board Members also discussed the formulas used to determine the costs and revenues proposed.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

Richard Unger, resident of the Stockade, spoke in opposition to the application and submitted written comments for the record. He stated that the use would not contribute to the walkability of the downtown area and would in fact have a negative impact on the surrounding area.

CONTINUED DISCUSSION

Mr. Epstein noted that at the time of the sale of the property to the applicants their attorney, had contacted him regarding possible allowed uses, one of which included a drive-thru restaurant. Mr. Epstein stated that he informed them at the time that such a business would require a use variance. Mr. Lecce, who was present at the meeting, commented that he had been inquiring as to what potential uses would be allowed and not about any specific proposal.

Mr. Keller stated that the evidence provided by the applicants regarding how they marketed the property shows that they were only marketing it for specific uses, including fast food restaurants or convenience stores, and they had not attempted to develop the site within the allowed uses. He stated that he did not believe that enough evidence had been provided regarding potential allowed uses, nor had the applicants proven that the hardship was not self-created. Mr. Connelly agreed.

SEQR RESOLUTION

Motion by Mr. Connelly, seconded by Mr. Keller, 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.

USE VARIANCE DENIAL

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

1. The applicant has not presented adequate evidence to prove that a reasonable return cannot be realized with the allowed uses.

2. The alleged hardship relating to the property is not unique and applies to a substantial portion of the district or neighborhood.
3. The requested use variance would alter the essential character of the neighborhood. A drive-thru only restaurant would have a significant negative impact on the pedestrian traffic in the area.
4. The alleged hardship is self-created.

Motion failed 2-3, with Mr. Gleason, Ms. D'Alessandro-Gilmore, and Ms. Lester opposed.

MOTION TO AMEND PREVIOUS MOTION

Motion by Ms. Lester, seconded by Ms. D'Alessandro-Gilmore, to amend the previous motion to deny the use variance.

Motion failed 3-2, with Mr. Connelly and Mr. Keller opposed.

- B. ABD ENGINEERS, LLP on behalf of BETHESDA HOUSE requests area variances for 917 State Street (49.34-1-25), located within the C-2 Mixed Use Commercial Zoning District, to construct a new facility with 26 supportive housing units and office space with a front yard setback of 15 feet where a maximum setback of 10 feet is allowed, and to provide 11 parking spaces where a minimum of 12 parking spaces are required pursuant to Schedule C and Schedule F of the zoning ordinance.**

Dave Kimmer of ABD Engineers presented the application.

Mr. Kimmer briefly reviewed the revised site plan. He explained that upon breaking ground on the project, which had received previous variances from the Board and site plan approval from the Planning Commission, it became evident that the fill used on the site in the past was unstable. Upon completion of a geotechnical study, which had been provided to the Board, it became apparent that the building would have to be moved back on the site or there would be a serious risk of the collapse of the street and sidewalk, as well as potential damage to additional infrastructure. He noted that by moving the building back one parking space would be lost, which the applicants did not see as a problem because they did not see the need for even eleven parking spaces. Mr. Kimmer explained that the residents of the transitional housing units do not have cars and the employees at the building could use the Bethesda House parking lot across the street, where there are plenty of spaces available.

Mr. Keller asked what the potential cost would be to remediate the site so as not to have to move the building back. Mr. Kimmer stated that it would be way beyond the funding afforded for this project, and most likely beyond what the developed site would be worth, regardless of the end use.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

The Board Members discussed the proposal and determined that they had no objections to the application. Mr. Epstein noted that a revised landscaping plan would have to be submitted to the City Planner for final approval.

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 APPROVAL

Motion by Mr. Connelly, seconded by Mr. Keller, 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. The Board has been provided a geotechnical study that was conducted for this property showing that attempting to construct the building closer to the front property line could result in damage to the sidewalk, bus stop, and roadway, as well as other surrounding infrastructure.
3. The variance is not substantial.
4. There will not be an adverse effect on physical or environmental conditions in the neighborhood. The change in building location will not result in a significant alteration to the street wall. Eleven parking spaces are likely more than the applicants will need as the residents of the building do not have vehicles and there is parking for staff available at the Bethesda House facility across the street.
5. The alleged hardship is not self-created.

And with the following condition:

1. An updated landscaping plan will be submitted to the City Planner for final approval.

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 7:40 p.m.