

**City of Schenectady**  
**Board of Zoning Appeals**  
**Meeting Minutes**  
*September 4, 2019*

**I. CALL TO ORDER**

Mr. Gleason called the meeting to order at 6:30 p.m.

Prior to taking the first item on the agenda, 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 V. Connelly; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Zoning Officer; 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 August 7, 2019 meeting as submitted.

*Motion carried, with Ms. D'Alessandro-Gilmore abstaining from the vote.*

**V. NEW BUSINESS - APPLICATIONS**

**A. ANDREW BRICK on behalf of ConvenientMD requests Area Variances for 2400 Watt Street (59.36-1-19.2) located in the C-5 Business District, to allow for 4 wall signs measuring 777.3 SQFT where 2 wall signs for a total of 150 SQFT are allowed pursuant to Schedule I of the Zoning Ordinance.**

Andrew Brick, attorney for ConvenientMD, and Dr. Mark Pundt, Chief Medical Officer of ConvenientMD appeared before the Board.

Mr. Brick briefly reviewed what had transpired during the first presentation of the application at the August 2019 meeting. He then introduced Dr. Pundt to address some of the questions that the Board Members had expressed

regarding the services offered by ConvenientMD and the type of patients that they treat.

Dr. Pundt explained that he has had many years of experience treating patients using the urgent care model, and he briefly reviewed why ConvenientMD is a different type of service. He stated that they have RNs on staff at all of their locations, unlike the Medical Assistants who are typically employed by urgent care facilities, and that they offer a much wider array of services, including radiology and lab work onsite. Mr. Keller asked Dr. Pundt if many of the patients who come to ConvenientMD would be better served by going to the nearest emergency department. Dr. Pundt stated that some will be referred to the ED, but many can be treated successfully at their facility.

Ms. Smith asked Dr. Pundt if he is familiar with the WellNow Urgent Care location on Balltown Road. She pointed out that they are located in a busy suburban shopping center but only have two small signs. Dr. Pundt stated that he is familiar with that location, but WellNow does not provide the same level of services as ConvenientMD, where new patients seeking out the facility might be in more serious medical distress. Mr. Brick noted that the Crosstown Plaza location is also very different than Balltown Road, as the siting of the building within the Plaza is unique and the Route 7 corridor is a much busier thoroughfare. He also noted that WellNow is a much shorter name with seven letters, and thus can be more quickly read. Ms. D'Alessandro-Gilmore asked how new patients will be directed to the facility or be made aware that it is available. Dr. Pundt stated that they advertise and do community outreach, but a large portion of the public education comes from educating the insurance providers that their center is available to their clients.

Mr. Brick next reviewed the site line photos that the Board had asked him to provide. He showed the different approaches to the site and how the actual signs would appear from different distances away. He stated that although the Board had requested that he obtain additional site line standards from the State Department of Transportation he was told that the DOT does not have any such standards, and that the only regulations they have concern electronic message board signs. He noted that as stated at the August meeting if the Board deemed it necessary his clients would be willing to give up the fourth sign on the building that had been requested by the Planning Commission.

#### **PUBLIC COMMENTS IN FAVOR**

Ray Gillen, Chairman of the Metroplex Development Authority and Schenectady County Economic Development Director, spoke in support of the application. He stated that ConvenientMD will be a great asset to the community and an important addition to the newly renovated Crosstown Plaza. He added that the unique site requires special consideration for signage due to the approach to the building and its location within the Plaza.

## **PUBLIC COMMENTS IN OPPOSITION**

None.

## **CONTINUED DISCUSSION**

Mr. Keller stated that nothing presented was compelling enough to change his position that he had expressed at the August meeting – that the signs are too large. He stated that he believes the applicant wants them for branding purposes, and that is why their logo is so big and “Urgent Care” is so much smaller below it. He noted that he has no objection to having four signs but believes that as proposed they are much larger than necessary.

Ms. D’Alessandro-Gilmore stated that she has no objection to the variances and that given the information that was presented she believes that the applicants made a compelling argument as to why they are necessary. Mr. Connelly agreed, stating that the applicants had brought the information that the Board had requested, and he believes that it proves that this site is unique due to its location. He stated that due to the high rate of speed of traffic on Route 7 he would support signage that would be helpful to approaching motorists and could possibly help to avoid accidents.

Ms. Smith stated that she agrees with Mr. Keller that the signs are too big. She explained that she thinks the business will be a great asset to the area but believes that they would not have chosen this site if they did not believe that it would work for their business model.

Mr. Clark stated that due to the medical nature of the business he believes that the signage should be very clear. He noted that potential patients will be approaching the site from all directions and the clear identification of the building is of the utmost importance.

## **SEQR RESOLUTION**

Motion by Mr. Connelly, seconded by Ms. Smith, 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 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 building has a unique location that is visible from all four sides and has an unusual approaching traffic pattern. In addition, due to the medical nature of the business it is important that the site be

highly visible to approaching patients who could be in some form of medical distress.

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, with Mr. Keller and Ms. Smith opposed.*

**B. TONY FYVIE on behalf of Schenectady Municipal Housing Authority requests an Area Variance for Steinmetz Homes (49.67-3-4) located in the R-3 Multi-Family Residential District, to allow for a 10 ft 11inch fence where 6ft is allowed pursuant to §264-32 Schedule D of the Zoning Ordinance.**

Richard Homenick, Executive Director of the Schenectady Municipal Housing Authority, presented the application.

Mr. Homenick gave a brief introduction to the Municipal Housing Authority, and explained that where the Authority's Steinmetz Homes development borders Spectrum Cable property there has been a problem with people who are pursuing illegal activities cutting through the property and using the dead end street that runs to it, Winston Place, thus creating a problem for the Winston Place neighbors as well. He stated that they had installed a shorter chain link fence in the past, but it had been vandalized and cut up to allow passage through it. Mr. Homenick explained that the Housing Authority has received a grant of \$250,000 for the project with \$100,000 for the fence purchase and installation and \$150,000 for the installation of security cameras which will be linked to the Schenectady Police and District Attorney's Office, both of whom have been actively working with the Housing Authority to reduce crime in the area. He showed the Board Members a sample of the steel mesh fence material and explained that it will be 170 feet long and will have a cantilevered portion at the top to make it almost impossible to climb over.

Mr. Keller asked Mr. Homenick if the tenants of Steinmetz Homes have been consulted about the fence. Mr. Homenick replied that they have, and that the only concerns they expressed were that they did not want the entire property to be walled off from the surrounding neighborhood with a high fence. Mr. Homenick stated that he assured them that this is not the SMHA's intent. Mr. Keller asked Mr. Homenick if it is the intent of the Authority to extend the fence in the future. Mr. Homenick responded that at this time they have no plans to do so, but it also depends on if any new problems arise with illegal activities in the area. Mr. Keller stated that he is concerned that eventually there will be an 11-foot high semi-circle of fence around the property. Mr. Homenick stated that this is not their intent, and they are relying on the

expertise of the Schenectady PD and the DA's Office to direct them as to where the fence will be the most effective.

**PUBLIC COMMENTS IN FAVOR**

Chris Bestina, resident of 6 Winston Place, spoke in favor of the application, stating that his street has had many problems with vandalism and theft as a result of using his dead-end street as a shortcut through the area. He presented a petition with signatures of 16 of his neighbors who also expressed their support for the application.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

Mr. Connelly commented that this application is similar to one considered recently that involved a high fence at the rear of the Northeast Parent & Child Society. He stated that he has no objection to this length of fence, but that it should be made clear that if the Authority seeks to extend the fence in the future they will have to return to the Board for further consideration. Mr. Keller agreed, stating that he can understand the need for this length of fence but would need to carefully consider adding more to it in the future.

**SEQR RESOLUTION**

Motion by Ms. Smith, seconded by Mr. Connelly, 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 Mr. Keller, to approve the Area 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.

And with the following conditions:

1. The area variance allows for the 170ft span of fence specified in the application. Should the applicants decide that a longer fence is needed they must return to the BZA for further consideration.
2. A fence permit must be obtained from the City before the fence is installed.

*Motion carried unanimously.*

- C. SHANE BARGY on behalf of the Boys & Girls Clubs of Schenectady request an Area Variance for 104 Education Drive (49.56-4-1.2) located in the C-2 Mixed-Use Commercial District, to allow for a freestanding sign of 50 SQFT and for a second wall sign where a max of 25 SQFT is allowed for freestanding signs and one wall sign is allowed per business pursuant to Schedule I of the Zoning Ordinance.**

Shane Bargy, Executive Director of the Boys & Girls Club of Schenectady, and Tom Wheeler of AJ Sign Company presented the application.

Mr. Wheeler briefly reviewed the design of the signs, explaining that the aluminum cabinets will be painted the same color as the building and the letters will be lit with a halo glow at night. He noted that the donor sign will not be illuminated.

Mr. Bargy gave a brief overview of the project and the programs that the Boys & Girls Club will operate at the site. He stated that the national office of the club has strict guidelines regarding the design of the sign front, so they were quite limited in their options. He explained that because of the way the building is oriented on the site they feel it is necessary to have two signs, since the front of the building is not visible as visitors approach from Education Drive. Mr. Bargy stated that they are seeking the third sign to acknowledge the very generous donor who helped fund the new building.

**PUBLIC COMMENTS IN FAVOR**

None.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

Mr. Connelly stated that due to the unique orientation of the building he can understand why the two identifying signs are necessary, and he can also understand the desire to have a sign acknowledging the donor. The other Board Members agreed.

**SEQR RESOLUTION**

Motion by Ms. Smith, seconded by Mr. Connelly, to declare the project a Type 2 SEQR action, with no significant impacts on the environment.

*Motion carried unanimously.*

**AREA VARIANCE APPROVAL**

Motion by Ms. Smith, seconded by Ms. D'Alessandro-Gilmore, to approve the Area 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. The position of the building on the site as it relates to the nearby road is unique in that the front of the building does not face the approaching traffic.
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.*

**D. STEVEN CIMINO SR. requests Area Variances for 1675 Broadway (49.45-1-19) located in the C-2 Mixed-Use Commercial District, to allow for a minimum lot area of 3,990 SQFT, 5 parking spaces, and 10% impervious area where a minimum of 8,500 SQFT, 7 parking spaces, and 20% pervious surface area are required pursuant to the Zoning Ordinance.**

Anthony Pigliavento, tenant of Mr. Cimino, presented the application.

Mr. Pigliavento explained that he plans to incorporate both retail storefronts in the building into one and use it for his glassblowing business, where he will also display the work of other local artisans. He stated that there is more than adequate on street parking around the building and he does not anticipate having a large number of customers in the store at one time.

Mr. Gleason asked what Mr. Pigliavento's planned hours of operation are. Mr. Pigliavento stated that he would like to be open from 11 a.m. to 8 p.m. Monday through Saturday, and that eventually he might be open on Sundays if he decides to hire an additional employee.

**PUBLIC COMMENTS IN FAVOR**

Steven Cimino spoke in favor of the proposal. He stated that he has owned the building for 15 years and was never made aware by the City that he needed any variances to operate the retail businesses on the site. Zoning Officer Epstein noted that this was an oversight on the part of City staff in the past, but this does not mean that the building use is grandfathered in any way.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

Seeing no further discussion by the Board Members, Mr. Gleason called for a motion.

**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 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.
- 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.*

**E. CHANDRAWATTIE CHETTANA requests Area Variances for 1519 Foster Avenue (39.50-2-35) located in the R-2 Two-Family Residential, District to allow for a 7ft tall fence and a carport that is 840 SQFT, with a 3 1/2ft side yard setback, 0ft rear yard setback, and 93% impervious surface where a 194 SQFT addition with a 5ft side yard setback and a 26ft rear yard setback and a maximum of 80% impervious surface are allowed pursuant to Schedule C of the Zoning Ordinance.**

Chandrawattie Chettana presented the application.

Mr. Chettana stated that he has owned the property since 2002 and at the time when he blacktopped the yard there were no restrictions about impervious surfaces. He added that his fence only exceeds height requirements because the grade is lower in one portion of the yard. Zoning Officer Epstein stated that there were no codes about impervious surface amounts at that time, but a paving permit was required at the time, and Mr. Chettana never obtained a permit. He added that the fence height is calculated by measuring up from the grade. Mr. Keller asked if the carport is already there. Mr. Chettana stated that it has been there for a few years, but he had been unaware that it was not allowed. Ms. Smith asked Mr. Chettana is he also still has the three-car garage shown in the aerial photo. Mr. Chettana replied that he does, but it is only accessible from Devine Street.

Mr. Epstein stated that there are discrepancies with the setback amounts that Mr. Chettana provided. He explained that when added to the size of the carport they exceed the width of the lot. Mr. Chettana stated that his wife was recently diagnosed with cancer and it would be very difficult for him to have to remove the carport at this time. He asked for some leniency from the Board. Mr. Epstein stated that the Board cannot approve a carport that appears from the information provided in the application to be partially situated on the neighbor's land. He stated that perhaps Mr. Chettana should have a survey done to be certain of exactly where his property lines are.

**PUBLIC COMMENTS IN FAVOR**

Mr. Chettana submitted a letter signed by ten of his neighbors stating that they have no opposition to the carport and fence.

**PUBLIC COMMENTS IN OPPOSITION**

None.

**CONTINUED DISCUSSION**

Mr. Keller stated that in his opinion the impervious surface and carport are completely unacceptable. He explained that between the paving and the carport there is virtually no place in the yard for stormwater to be absorbed without impacting the neighbors. The other Board Members agreed. Mr. Connelly noted that the size of the carport is extremely large in relation to the house and yard and the Board has not granted similar variances for carports in the past.

**SEQR RESOLUTION**

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

*Motion carried unanimously.*

**AREA VARIANCE DENIAL**

Motion by Mr. Keller, seconded by Ms. Smith, to deny the Area Variances 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.
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 Ms. Lester, to adjourn the meeting.

*Motion carried unanimously.*

Meeting was adjourned at 8:07 p.m.