

City of Schenectady
Board of Zoning Appeals
Meeting Minutes
November 6, 2019

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; Mary D'Alessandro-Gilmore; Brendan Keller; Helene Lester; Krystina Smith; Avi Epstein, Zoning Officer; Jennifer Mills, Secretary

EXCUSED: Fred Clark; David V. Connelly

III. CONFLICT OF INTEREST CHECK

Ms. D'Alessandro-Gilmore stated that she would be recusing herself from the consideration of the EGK Properties, LLC application.

IV. APPROVAL OF MEETING MINUTES

Motion by Ms. D'Alessandro-Gilmore, seconded by Mr. Keller, to approve the Minutes of the September 4, 2019 meeting as submitted.

Motion carried unanimously.

V. NEW BUSINESS - APPLICATIONS

A. EGK PROPERTIES, LLC requests an Area Variance for 5 Jefferson Street (39.56-3-1.1) located in the C-3 Waterfront Mixed Use Zoning District, to allow for the construction of a 6-unit apartment building on 5,374 SQFT where a total of 7,250 SQFT is required pursuant to Schedule C of the Zoning Ordinance.

Anna Atanasova, representative of EGK Properties, LLC, and the architect for the project, Frank Gilmore of SRG Architects, presented the application.

Ms. Atanasova explained that she is currently under contract to buy this vacant lot from the City and would like to build a six-unit apartment building on the site. She stated that the ground floor would have three apartments and the second and third floors would have three two-story apartments. She noted that there would be six onsite parking spaces and she would have a written shared parking agreement for three additional spaces to be made available at one of her other properties nearby. Ms. Atanasova stated that she tries her best to maintain her properties well. She explained that unfortunately she sometimes has tenants who become problems in the neighborhood, but she does her best to mitigate any problems and evict them if necessary.

Mr. Gilmore briefly reviewed the proposed building elevations and site plan drawings. He explained that due to the narrow nature of the lot the building is designed perpendicular to the street, with the front side facing the parking lot. He added that he believes that a building of this size and density is appropriate for the neighborhood, where there are many existing multi-family residential dwellings.

Zoning Officer Epstein clarified that the applicant had been granted a Special Use Permit by the City Planning Commission to allow for the six-unit building but needs a variance for the amount of lot coverage required, which is 1250 SQFT per unit. Ms. Smith asked Ms. Atanasova why she believes that she needs a six-unit building on the site as opposed to four units, which would not require a variance. Ms. Atanasova replied that a four-unit building would not be financeable as a commercial building, and therefore she is not sure if she could get the necessary funding to build a four-unit building. Ms. Smith asked Ms. Atanasova if she knew this information prior to entering into the contract to buy the property from the City. Ms. Atanasova stated that she did. Mr. Keller asked Ms. Atanasova if she believes that she could not make a reasonable return on her investment with an allowed use. Ms. Atanasova responded that she is not certain of that at this time.

Mr. Keller stated that he believes that the building should have some sort of entrance on Front Street. Mr. Gilmore stated that this is not possible because of the interior layout of the building. Mr. Keller suggested that perhaps some sort of false front could be added to the design. Mr. Gilmore agreed that that could be a possible solution.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

Carmella Ruscitto, resident of 205 Front Street and President of the East Front Street Neighborhood Association, spoke in opposition to the application. She stated that the neighbors believe that the density of this development is unsuitable for the location and added that she would like to see a single-family

home or duplex built on the site. Mr. Keller asked Ms. Ruscitto if she believes that there should not be a multi-family building on the site. Ms. Ruscitto replied that that is her position. She also presented a petition with the signatures of twenty neighborhood residents expressing their opposition to the proposal.

Mary Ann Ruscitto, resident of 205 Front Street and Vice President of the East Front Street Neighborhood Association, spoke in opposition to the application. She stated that she believes that Ms. Atanasova does not rent to good tenants and that there has been criminal activity and arrests at her other buildings in the area. She added that the neighbors are working hard to improve the area and she does not believe that a building of this size and density would further those goals.

Martin Byster, resident of 18 River Street, spoke in opposition to the application, stating that the proposed design does not seem like a good fit for the site or the neighborhood. He questioned whether there would be adequate greenspace and permeable surface on the site.

CONTINUED DISCUSSION

Mr. Keller asked Mr. Epstein if Ms. Atanasova had an unusual history of violations or citations with the City. Mr. Epstein responded that there was nothing out of the ordinary on her record, and that when violations had been issued in the past they had been corrected swiftly. Mr. Keller stated that due to the strong negative response from the neighbors and the small size of the site in question he would be inclined to deny the variance. Ms. Smith agreed, stating that she feels that the density proposed for a lot this size would be both out of character with the neighborhood and would certainly have the potential to have a negative impact on the surrounding area. She added that she is not convinced that Ms. Atanasova could not realize a reasonable return within the allowed uses.

SEQR RESOLUTION

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

Motion carried unanimously, with Ms. D'Alessandro-Gilmore recusing herself from the vote.

AREA VARIANCE DENIAL

Motion by Ms. Smith, 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. Many residents of the area either spoke in opposition to the application at the meeting or signed a petition against it. The Board also believes that the unique size and layout of the lot is not suitable for a building of this size and density.

2. The benefit sought by the applicant can be achieved by another method. The applicant failed to provide adequate evidence to show that a four-unit building, which would be allowed under the Zoning Code without the need for an area variance, would not be a viable option.
3. The variance is substantial at 1,876 square feet.
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, with Ms. D'Alessandro-Gilmore recusing herself from the vote.

B. PRAAB SHARAN MAAN requests Area Variances for 281 Altamont Avenue (49.66-3-7) located in the C-2 Mixed Use Zoning District, to allow for a freestanding sign to be 15 feet tall with no setback from the corner where 7 feet in height and a 20 foot setback is required pursuant to Schedule I of the Zoning Ordinance.

A representative from the sign company, Matthew Signs, presented the application.

The applicant stated that they would like to use the existing pole for the new sign. He added that they plan to remove all of the current signs from it. Ms. D'Alessandro-Gilmore asked how high the proposed new sign would be. The applicant stated that it would be approximately 15 feet high. Zoning Officer Epstein noted that pole signs are not allowed under the Code; thus, if the variances were to be granted the sign would have to have a pole on each sign.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Keller stated that he sees no reason why the variances should be granted as the applicant had failed to show any reason why they are necessary. He stated that there has been no compelling evidence demonstrating that the sign could not be placed in an allowable location at a reduced height. The other Board members agreed. Mr. Epstein noted that if the sign were to stay in its current location decreasing the height could potentially cause site line issues with vehicles entering and exiting the site.

SEQR RESOLUTION

Motion by Mr. Keller, 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 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. The proposed sign is inconsistent with the goals of the Zoning Code.
- 2. The benefit sought by the applicant can be achieved by another method, specifically by installing a sign that is compliant with the Zoning Code.
- 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.

C. RAJESHWAR & RESHMA SHARMA request an Area Variance for 1572 Rugby Road (50.21-1-13) located in the R-1 Single Family Zoning District, to allow for a 240 SQFT addition with 1,650 SQFT of permeable land where 2,400 SQFT of permeable land is required pursuant to Schedule C of the Zoning Ordinance.

Rajeshwar and Reshma Sharma presented the application.

Mrs. Sharma explained that they would like to add an addition to the rear of their home. She stated that they had already removed some paving and an above-ground swimming pool from the backyard in order to try and increase the permeable surface on the property. Ms. Smith asked the applicants if there is any other existing green space in their backyard. Mr. Sharma stated that there is a grassy area behind the garage.

Mr. Epstein calculated the additional permeable surface that had been added since the application had originally been filed and determined that the remaining shortage of permeable surface had been reduced to 176 square feet. The Board members and applicants discussed potential ways to remove more paving from the site, specifically the area surrounding where the pool was previously located.

PUBLIC COMMENTS IN FAVOR

None.

PUBLIC COMMENTS IN OPPOSITION

None.

CONTINUED DISCUSSION

Mr. Keller stated that the reduced amount of permeable surface needed seems much less significant, but he believes that granting this type of variance could lead to more variance issues with impermeable surfaces in the future. Ms. Smith suggested tabling the application to allow the applicants to decide how it would be best for them to move forward. After further discussion it was determined that the applicants would investigate whether they might be able to remove enough additional paving to eliminate the need for a variance, or to recalculate the amount needed and return with an amended application.

MOTION TO TABLE

Motion by Ms. Smith, seconded by Mr. Keller, to table the application to allow the applicants the opportunity to determine exactly how much impermeable surface remains on their property and if they would like to continue to pursue a variance or remedy the situation by eliminating additional paved surface area.

Motion carried, with Ms. D'Alessandro-Gilmore opposed.

VII. MOTION TO ADJOURN

Motion by Ms. Lester, seconded by Ms. Smith, to adjourn the meeting.

Motion carried unanimously.

Meeting was adjourned at 7:54 p.m.