

Minutes of a regular meeting of the  
Johnson City Zoning Board of Appeals held on  
December 14, 2015 at 7:30pm at  
243 Main St., Johnson City, NY

Present: Vernon Rowlands, Chairman  
Edward Mazanek, Vice Chairman  
Leonard Sas, Secretary  
Dr. Steve Holowinski  
Charles Snedaker

Absent: None

Also Present: Diane Salva, Clerk to the Planning & Zoning Boards  
Jeff Jacobs, Attorney for the Village  
Daria Golazeski, Town of Union DCPW/C&O  
Mayor Greg Deemie

A brief work session was held at 7:00pm. During the work session the board reviewed the applications on the agenda.

Chairman Rowlands called the meeting to order at 7:30pm & noted the emergency exits.

**Minutes** - A motion to approve the minutes for the September 14, 2015 regular meeting was made by Mr. Mazanek and seconded by Mr. Sas. The motion carried with all those present voting in the affirmative.

**Privilege of the Floor** - None

**Communications** - Lead Agency designation request from Planning Board for the project at 135-139 Baldwin Street.

**Contingencies** - None

**OLD BUSINESS** - None

**NEW BUSINESS**

**Regan Development – 135-139 Baldwin Street**  
**Public Hearing – 4 Variances**

Regan Development Corporation submitted an application to renovate two former warehouse buildings at 135-139 Baldwin Street into 104 residential units and 7,745 square feet of potential commercial space. The property is zoned General Commercial and a mixture of commercial and residential uses is permitted. Due to existing conditions, the proposal does not conform to the Village of Johnson City zoning requirements with regard to the number of parking spaces provided on site, and the required setbacks for parking spaces and recreation areas. Therefore the following variances are requested for this project:

- 1) Per Table 300-51.3, the minimum number of parking spaces required is 226, therefore area variance of 36 spaces to allow 190;
- 2) Per Section 300-40.13.C, a multifamily use requires a 20-foot parking setback from property lines:



- a) variance of 20-feet for a zero parking setback along north and south property lines;
  - b) variance of 13-feet for a 7-foot parking setback along the east property line; and
  - c) variance of 10-feet for a 10-foot parking setback along the west property line;
- 3) Per Section 300-40.13.C, parking may be located in any yard other than the front yard, and this property has two front yards. The applicant requests an area variance to allow parking in the front yards along Willow Street and Baldwin Street;
  - 4) Per Section 300-40.13.B, no recreational area may be within 50-feet of a property line. The applicant is seeking an area variance of 35-feet from the south property line in lieu of 50' setback, allowing a 15-foot setback from the south property line for the recreation area.

Sarah Campbell with Hinman, Howard & Kattell, LLP, Larry Regan with Regan Development and David Chase with Delta Engineers were present on behalf of the application.

Chairman Rowlands opened the public hearing.

Attorney Campbell reviewed the project and the variances being requested. Mr. Chase indicated the locations on the site plan where the variances are needed and explained that they are negotiating long term leases with the rail road and with the Mosque for additional parking spaces. Attorney Campbell explained that under the standards of review – the benefits far outweigh any detriments. The applicant has done everything possible to try and increase parking. A previous applicant who wished to redevelopment this property into house was granted a large variance by the Village reducing the minimum number of required parking spaces from 344 to 191. The site is central to public transportation and is unique in that it has 2 front yards.

Ms. Golazeski stated that she had received a call from a neighbor on Pleasant Avenue inquiring about the plans for the small building on site and the retaining wall. Attorney Campbell explained that SHIPO will not allow the applicant to demolish the small building so they will clean it up, reappoint the brick and secure it. The retaining wall needs to remain. They will repair it and “dress it up”. Ms. Golazeski asked if the upper wall at the back of the property with the rickety fence on it is one the applicant’s property. Mr. Chase stated that they are not sure if it is on the property.

Chairman Rowlands closed the public hearing.

A motion to consent to the Planning Board’s request for Lead Agency designation for the project and further approving and ratifying the Planning Board’s negative declaration issued in conjunction with their review of this project was made by Mr. Sas and seconded by Dr. Holowinski.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0



A motion to approve a approve a variance to allow the minimum number of required parking spaces to be reduced from 226 to 190 was made by Mr. Mazanek and seconded by Mr. Snedaker.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

A motion to approve a variance of 20-feet for a zero parking setback along north and south property lines; a variance of 13-feet for a 7-foot parking setback along the east property line; and a variance of 10-feet for a 10-foot parking setback along the west property line was made by Mr. Mazanek and seconded by Mr. Sas.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

A motion to approve a variance to allow parking in the front yards along Willow Street and Baldwin Street was made by Mr. Mazanek and seconded by Mr. Snedaker.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

A motion to approve a variance of 35-feet from the south property line in lieu of 50' setback, allowing a 15-foot setback from the south property line for the recreation area was made by Mr. Mazanek and seconded by Mr. Snedaker.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

**Ziaul Qamar – 656 Riverside Drive**  
**Public Hearing – Use & Area Variances**

Ziaul Qamar, the owner of Halal Bites, submitted a sign application to replace the face of a pylon sign located at 656 Riverside Drive, the location of an existing take-out restaurant use. The existing sign became legally nonconforming with the adoption of the new zoning code in 2011, as pylon signs are not permitted in the property's current zoning district, Neighborhood Commercial. The replacement of the pylon sign face results in the loss of the nonconforming status. Monument signs are the only free-standing sign permitted, with a maximum height of 8-feet, and the top of the existing sign frame is 24-feet in height.

The requested variances are:

- 1) A Use Variance for a pylon sign in a Neighborhood Commercial zoning district; and
- 2) An Area Variance for sixteen-feet (16') greater than the permitted eight-feet (8') height for a freestanding sign in a Neighbor Commercial zoning district.

Mr. Ziaul Qamar was present.

Chairman Rowlands opened the public hearing.

Mr. Qamar explained that he has opened a small take-out restaurant at the site and just wants to replace the face of the sign with the name of his restaurant. Chairman Rowlands asked if the



pole is already there for the sign. Mr. Qamar stated that yes it is there. Mr. Mazanek stated that this is a straightforward application.

Chairman Rowlands read the department head comments and the 239 Review comments from Broome County.

### **Planning Staff Recommendations**

The Planning Department staff recommends that the Planning Board recommend to the ZBA:

- 1) approval of the use variance to replace the face of an existing, nonconforming pylon sign; and
- 2) approval of the sixteen- foot (16') Area Variance for the height of an existing pylon sign.

If the pylon sign were ever removed, the Planning staff recommends that it be replaced with a monument sign. In addition, the Planning staff recommends that the two lots on which the business is located, 652 and 656 Riverside Drive, be combined to minimize confusion and clarify the business's property location.

### **Broome County Planning:**

Because the sign runs contrary to the Village of Johnson City efforts to improve the local signage and to the purpose of the sign regulations to reduce visual clutter through the prevention of excessive sign displays; we recommend that if the pylon sign is ever removed it be replaced with a monument sign

This Department makes no determination as to whether the applicant meets the four (4) tests of a use variance.

The project site is located almost entirely within the Existing FEMA Special Flood Area and entirely within the Preliminary FEMA Special Flood Area. The applicant should be informed of the risks of placing the project in the Special Flood Area.

Chairman Rowlands asked if Mr. Qamar was aware of the flooding history of the area. Mr. Qamar stated that yes, he was.

Chairman Rowlands closed the public hearing.

### **SEQR**

Attorney Jacobs explained that a SEQR Short Environmental Assessment Form has been prepared and reviewed the form.

The board, having reviewed Part I and Part II of the SEQR Short Environmental Assessment Form ("Short EAF") has determined that there will not be any significant adverse environmental impacts with respect to the project, therefore a motion was made by Mr. Mazanek and seconded by Mr. Sas finding that the proposed action will not have a significant adverse environmental impact and authorizing the Chairman to sign the Negative Declaration.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0



A motion to approve a use variance for a pylon sign in a Neighborhood Commercial Zoning District due to the fact that it is an existing, non-conforming sign was made by Mr. Mazanek and seconded by Mr. Sas.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

A motion to approve an area variance to increase the maximum allowable height for a freestanding sign in a Neighborhood Commercial Zoning District, as it is an existing sign and with the stipulation that is the sign is ever removed, it must be replaced with a monument sign, was made by Mr. Mazanek and seconded by Dr. Holowinski.

Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

**Thanan Nguyen – 339 Floral Avenue**  
**Public Hearing – Area Variance**

The application is a request to reduce the minimum required setback from the street property line for a solid fence from 8ft. to 2.6ft. The applicant has already installed the fence.

The property owner, Mr. Thanan Nguyen and Mr. John Cook, the fence installer, were present.

Chairman Rowlands opened the public hearing.

Mr. Cook explained that Mr. Nguyen purchased the fence from Lowe's and he installed the fence as a subcontractor for Lowe's. He explained that the neighbor to the rear of the property showed him where the property lines are. They removed a row of pine trees that were overgrowing the sidewalk to install the fence. Mr. Nguyen installed the fence to keep his young daughter safe when she is playing in the yard.

Mr. Fred Rainey, 77 Cook Street – Spoke against the variance. Stated that he lives at the property that borders the rear of this property and because of this fence he is now having difficulty see cars on the street when he is backing out of his driveway.

Mr. Cook stated that Mr. Rainey helped them lay out the fence. Mr. Rainey stated that he did not know that the fence would be 6ft. tall. Mr. Rainey explained that they installed a fence from Lowe's years ago and at the time had a property survey done.

Attorney Jacobs asked Mr. Rainey if visibility was more of an issue with the fence or the pine trees. Mr. Rainey stated that he had no real issues with trees because the branches were higher up by the power lines. He explained that paid \$200 to help pay for the removal of one of the trees by his driveway. Mr. Cook stated that the branches on the trees were closer to the ground than that.

Chairman Rowlands asked if Mr. Rainey objected to the height or visibility. Mr. Rainey stated it was visibility.



Mr. Mazanek asked for a clarification of the variance. Ms. Golazeski explained the variance and that because this is a corner lot and is considered to have 2 front yards by definition.

Mr. Nguyen stated that he did not know the rules and he installed the fence for the safety of his children and wife.

Attorney Jacobs reviewed the criteria for granting a variance.

The Board and the applicant discussed options for making changes to the fence and improving the visibility.

Chairman Rowlands closed the public hearing.

A motion to approve the variance to reduce the minimum required setback from the street property line for a solid fence from 8ft. to 2.6ft with the exception of the last 8 feet of the fence which must be at a 45 degree angle along the sidewalk to the rear yard, was made by Chairman Rowlands and seconded by Mr. Mazanek.

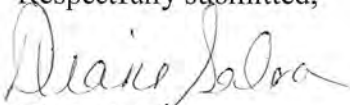
Motion Carried – Vote:

**Yes** – 5 (*Snedaker, Holowinski, Sas, Mazanek, Rowlands*)    **No** – 0    **Absent** – 0

#### **ADJOURNMENT**

A motion to adjourn the meeting at 8:25pm was made by Mr. Sas and seconded by Chairman Rowlands.

Respectfully submitted,



Diane Salvá  
Zoning Board Clerk

