

Minutes of a regular meeting of the
Johnson City Zoning Board of Appeals
held on May 14, 2018 at 7:30pm at
243 Main St., Johnson City, NY

Present: Edward Mazanek, Chairman
Dr. Steve Holowinski
Vernon Rowlands, Secretary

Absent: Leonard Sas, Vice Chairman

Also Present: Kim Cunningham, Clerk to the Planning & Zoning Boards
Keegan Coughlin, Attorney for the Village
Daria Golazeski, Town of Union

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

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

MINUTES

The minutes of the April 9, 2018 regular meeting were held over by Mr. Rowlands.

PRIVILEGE OF THE FLOOR – None

COMMUNICATIONS - None

CONTINGENCIES - None

OLD BUSINESS - None

NEW BUSINESS

75 Brown St
Public Hearing-Variance
Type 2 Action

Chairman Mazanek opened the public hearing.

Brian King appeared on behalf of 75 Brown Street. He is looking for a variance so he can expand his garage 15 feet. He would like the setback to 0. He will not be infringing on the right-of-way. The land slopes to the state property where there is already drainage in place.

Chairman Mazanek closed the public hearing.

Chairman Mazanek read correspondence from Broome County Planning comments along with NYS Department of Transportation explained that a Short Environmental Assessment Form ("Short EAF") has been prepared and reviewed the form.



A motion to approve the variance for rear setback from five feet to zero feet and a side setback from five feet to zero feet for accessory structure contingent upon the applicant contacting NYSDOT to ensure the garage does not encroach on the State's right-of-way was made by Mr. Rowlands and seconded by Dr. Holowinski.

Motion Carried – Vote:

Yes – 3 (*Holowinski, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Sas*)

7 Burns St

Public Hearing-Variance

Declaring Lead Agency

SEQRA

Chairman Mazanek opened the public hearing.

Mark Dellapenna appeared on behalf of 7 Burns Street. There was a chain link fence that was very rusted because of the two floods. He put up a solid wood fence on both sides of the gates and painted it red as the color of the building. He was in violation. He is asking permission to keep up the solid fence. The gate will be open with no fence.

Brian King, of 75 Brown Street, a neighbor, acknowledges it looks a lot better because you can't see the trucks in the bays. He would like to see it stay.

Chairman Mazanek closed the public hearing.

The board, having reviewed 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. Rowlands and seconded by Dr. Holowinski finding that the proposed action will not have a significant adverse environmental impact, authorizing the Chairman to sign the Negative Declaration and declaring Zoning Board of Appeals lead agency.

Motion Carried – Vote:

Yes – 3 (*Holowinski, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Sas*)

Chairman Mazanek read the department head comments.

DEPARTMENT HEAD COMMENTS:

- **Code Enforcement:** Code requires an 8 foot setback.
- **Fire Department:** No Compelling Interest.
- **DPW:** Ok with variance as long as the gate remains an open chain link fence. The photos show the fence as is would be acceptable.
- **J.C. Police:** No Compelling Interest
- **B.C. Planning Department:** Reviewed the case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, we have the following comments:



The fence should comply with the Village Code regarding fencing placed within the eight-foot setback for code safety and traffic safety purposes. The Village Zoning Board of Appeals should ensure that the fence would not hinder visibility for vehicles and pedestrians entering and exiting the project site.

- **Planning Board:** recommends ZBA approval of solid fence within the eight-foot front setback higher than three feet, as long as the entrance gate remains only chain link, as it is currently along Burns Street

Based on the pictures, this would not impair traffic. The gate opens inward. The gate is open 6:30am – 5:30pm. The fence is 6 foot high.

A motion to approve the variance for a solid fence with a setback changing from eight feet to zero feet no higher than six feet and taking into consideration Planning Board recommendation was made by Dr. Holowinski and seconded by Mr. Rowlands.

Motion Carried – Vote:

Yes – 3 (*Holowinski, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Sas*)

757 Harry L. Drive
Public Hearing-Variance
Lead Agency
SEQRA

Chairman Mazanek opened the public hearing.

Chris Butora appeared on behalf of 757 Harry L. Drive. He built exterior stairs on his commercial building, leading to the second story without a building permit. He also erected a metal structure without a building permit. The staircase needs a variance for a setback to the property line and the building needs a variance because there is only one foot between the buildings.

The stairs were constructed for access to the second floor outside the building without having to go downstairs. The two buildings are not attached. The building walls are 100% steel and there is no insulation between the two buildings. There is fire retardant insulation on the other three walls.

Mr. Butora states the drainage from buildings follows the property line between the two neighbors behind him where there is a trench which drains to the state reservoir. On the front side of the building it runs across the front of the property to the storm drain in the parking lot.

Mr. Butora confirms the stairs do not impede emergency vehicles and there is room for people to drive. The stairs are 24 feet wide and there is 30 feet of space between the two buildings which allows for emergency access.

With regard to the floodplain Ms. Golazeski stated if he would have come to code before he built the building, she would have suggested Mr. Butora elevate the structure.

Chairman Mazanek closed the public hearing.



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. Rowlands and seconded by Dr. Holowinski 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 – 3 (*Holowinski, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Sas*)

Chairman Mazanek read the department head comments.

239-REVIEW AND DEPARTMENT HEAD COMMENTS:

- **Broome County Planning:** The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, they had the following comments:
 - The project site is located entirely within the Preliminary FEMA Special Flood Hazard Area. The applicant should be informed of the risks of placing the project within the Special Flood Hazard Area.
 - The Village Zoning Board of Appeals should ensure that the project would not impede emergency access.
 - The Village Zoning Board of Appeals should ensure that the project complies with all applicable laws for the storage, handling, and disposal of hazardous materials.
 - The Village Zoning Board of Appeals should ensure the project include appropriate drainage.
- **NYS DOT:** The Region 9 Site Plan Review Committee has no comments on this proposal at this time.
- **Public Works & Water:** No comments.
- **Police:** No compelling interest.
- **Fire Department:** No comments.
- **Code Enforcement:** No comments.
- **Planning Staff Recommends:** Approval of all area variances. The structures are already constructed. The Zoning Board of Appeals may want to require that the structures be inspected for structural safety.

Mr. Butora confirms there are not any hazardous materials on the property at this time.

A motion to approve three variances, a 13 foot area variance for a side setback of 7 feet for the stairs on the principal structure, a 7 foot variance for one foot distance between the principal building and the second building; and a 4 foot area variance for a side setback of 6 feet for the accessory building structure, require the building permits are retroactively sought, all other village building codes are complied with and the buildings be open for inspection upon request by the Village of Johnson City and Town of Union Code officers to make sure there is no structural safety issues and contingent upon there is no impedance to any emergency access that is required, that the work in the buildings follow all applicable laws for storage, handling and disposal of hazardous materials and that any extra



drainage will continue to flow across the property toward the back of the property line was made by Mr. Rowlands and seconded by Mr. Holowinski.

Motion Carried – Vote:

Yes – 3 (*Holowinski, Sas, Mazanek*) **No** – 1 (Rowlands) **Absent** – 0

ADJOURNMENT

Chairman Mazanek adjourned the meeting at 7:56pm.

Respectfully submitted,

Kim Cunningham

Kim Cunningham
Zoning Board Clerk

