

Minutes of a regular meeting of the  
Johnson City Zoning Board of Appeals  
held on January 13, 2020 at 7:30pm at 243  
Main St., Johnson City, NY

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

Also Present: Daria Golazeski, Town of Union  
Nathan VanWhy, Attorney for the Village  
Trustee Marty Meaney  
Trustee John Walker

Absent: None

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

**Reorganization of officers**

A motion to nominate Mr. Edward Mazanek as Chairman was made by Mr. Vernon Rowlands and seconded by Mr. Sas. The motion carried with all those present voting in the affirmative.

A motion to nominate Mr. Vernon Rowlands as Vice Chairman was made by Dr. Holowinski and seconded by Mr. Sas. The motion carried with all those present voting in the affirmative.

A motion to nominate Mr. Leonard Sas as Secretary was made by Dr. Holowinski and seconded by Mr. Vernon Rowlands. The motion carried with all those present voting in the affirmative.

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

**MINUTES**

A motion to approve the minutes of the December 9, 2019 regular meeting was made by Mr. Sas and seconded by Dr. Holowinski. The motion carried with all those present voting in the affirmative.

**PRIVILEGE OF THE FLOOR** - None

**COMMUNICATIONS** - None

**CONTINGENCIES** - None

**NEW BUSINESS** - None



## **OLD BUSINESS**

### **19 Arch Street – Winding Brook Corporation**

Continuance of Public Hearing

Area Variances to increase the building height allowed, and to reduce the number of off-street parking spaces at 19 Arch Street.

Attorney Sarah Campbell, Armand Cucciniello, Developer, his assistant Mary Beth Lewis and Laura Lee Intscher, Architect appeared on behalf of 19 Arch Street.

At the previous meeting on December 17, 2019, the Zoning Board wanted more specific information regarding the height of the buildings in the vicinity.

Attorney Campbell explained Ms. Intscher estimated the height of the buildings in the area by counting bricks or blocks. Their proposed building is 49 feet. They estimated the House of Truth building at 49-51 feet, City Rug building at about 51-53 feet and others are 43-46 feet and 42 feet. Attorney Campbell feels the character of the neighborhood is changing, four houses have been demolished and that it is not going to be single family residential in the future. She stated the character of the neighborhood is predominantly the hospital, nursing school and pharmacy school.

Attorney Campbell explained the developer is committed to the community of Johnson City, but also the County. A list of the developer's other projects in the area was provided to the Planning Board. Attorney Campbell presented the Board with a petition with signatures in support from the business and residential community.

Attorney Campbell said unless something is coming down, there will not be any increased parking available. This proposed building is expensive to convert and the split level would make it less likely for retail or business use.

Attorney Campbell asserted everything was done to make it the least impactful as it could possibly be, while still justifying the expense for the renovation. They are asking for two variances, one for parking and one for height. They are not asking for a back-out variance. They removed any parking from the site, so that is no longer a request.

Ms. Intscher stated they have an empty building and they would like to see a use that would benefit the City and maintain the character of the very interesting building. In order to keep that original façade they do need, for developmental purposes, the capacity increase for the unit number to make that viable and to add the accessibility factor with an elevator to make this an accessible building. There isn't a lot of other choices with what you could do to adapt it, it is a substantially sturdy building and they would really like to see something there that benefits the community.

Mr. Sas questioned how they will make the building more accessible.

Ms. Intscher confirmed there will be an elevator in the corner, an elevator core and stair that will be accessible by all floors. It comes into a landing which will be at grade at the front. They plan to keep the garbage in the existing asphalt area. They will take some of the asphalt area out to create a little more greenspace as well as planting greenspace in the front to further buffer the additions.



Ms. Intscher emphasized the building and the elevation are not out of character in the area and there is another four-story residential approximately the same size on the street. Ms. Intscher stated many of the students and professors who work at the pharmacy school are using transportation rather than vehicles which is a feature that works with this particular program development better than any other use of the building would.

Chairman Mazanek asked if they had any thought of making handicapped spots since they are making the building handicapped accessible. If someone is handicapped, who would want to rent an apartment if they have to park a street or two over.

Ms. Intscher confirmed the slim area is not wide enough for any kind of driveway or parking.

Daria Golazeski stated on-street parking is for anybody. You cannot designate on-street parking for a specific building.

Attorney VanWhy suggested making the first or second floor parking.

Attorney Campbell and Ms. Intscher replied there is not enough space or clearance.

Ms. Intscher said she had a tour of the pharmacy school a year ago and the Director told her that 65% of the students who come from the City, do not come with cars.

Attorney Campbell stated they are not just targeting students and professors, but they hope hospital employees, staff and physicians would be interested.

Dr. Holowinski voiced his concern that the businesses would lose 32 parking spots and there is a very limited amount close by.

Ms. Golazeski and Ms. Intscher discussed the Central Business District and code.

Ms. Intscher claimed 32 parking spots is excessive as there are only 20 apartment buildings. She confirmed they have four two-bedroom apartments, six one-bedroom, three studios with a loft and seven studios.

Dr. Holowinski asked if they could use the municipal parking if this building was in the Central Business District?

Attorney VanWhy avowed if the building was in the Central Business District, they could use the municipal lots to satisfy their parking requirements without the need for a variance. The Code allowing that for the Central Business District is a policy decision by the Village to reserve those lots for the Central Business District. The zone is called the Central Business District. There are only 172 parking spaces and 75 are issued for parking permits for these lots. If there were 32 spaces taken away from the Central Business District's ability to have this parking reserved, it is arguably a detriment to the Central Business District's potential uses for this area.

Ms. Intscher argued that the benefit is having more tenants patronizing the businesses. The other business they developed at 258 Main Street had no on-street parking, but qualified since they are in the Central Business District.



Karen McElwee, appeared on behalf United Health Services. They are a 24/7 operation and they struggle with parking for their patients and their staff each and every day. They oppose a project in their immediate neighborhood that doesn't have designated parking.

Armand Cucciniello from Winding Brook Corporation stated it has been his experience since they have been under contract with this building that he travels Arch as well as Broad St and he doesn't see any problems except during the day with the construction going on at the hospital. After 4:30pm, there is not a problem with parking at all.

Thomas Poliziano of Arch Street stated he lives right next door to this building and would like to see this application denied as it is not a good fit for the neighborhood nor the general area. He understands any use would need a variance but not to the extent that this one would require. In his opinion, a denial would be a blessing for the corporation because this project may turn out to be a less than stellar business decision. For rent signs permeate the Village and not sure of the vacancy rates at Century Sunrise Building, but another multiple residential unit is being built at Sherman Street and Grand Avenue. Many hospital professionals want to own their own homes, they don't want to live directly across the street from what is sometimes a stressful workplace.

Mr. Poliziano continued he would like to see the Village help Winding Brook find other Johnson City locations where they can work their magic to the advantage of the Village and perhaps allow themselves a great chance for success financial or otherwise. He sides with the various agencies and expresses concern with this project and supports the decision of the Planning Board to deny. Mr. Poliziano again asked the Zoning Board to deny the application.

Mr. Poliziano disagreed with the statement you will not be able to see the addition on the building from the sidewalk.

Dave Petryszyn, declared he is the current owner of the building at 19 Arch Street, he is a police officer with the City of Binghamton and runs the traffic division. Mr. Petryszyn questioned the reason the fire department recommended denial.

Chairman Mazanek read correspondence from Chief Myron Jacyna to Daria Golazeski.

Dee regarding our conservation pertaining to the parking situation on Arch street I have some concerns. Currently our emergency equipment uses Arch St. and Baldwin St... Currently Baldwin is getting too congested with traffic due do UHS construction for our equipment to navigate safely. Currently the most efficient way for our cross-town connection is by using Arch St...

Currently during the day Arch is also extremely congested with parking on the street. So, adding apartments with no parking would be a concern for me and how our emergency vehicles get from one side of town to the other. Also, it is not only parking that is a concern but how would deliveries be handled on street parking?

If you have any further questions please contact me.

Myron Jacyna



Chief of Fire



Mr. Petryszyn continued he is sure the streets were constructed to allow parking on one side and must be wide enough to allow traffic to flow. He is unsure how having an apartment building on one side of the street affects that at all. If you have one car parked there now, it is the same as having the street full of cars.

Daria Golazeski confirmed there is parking on both sides of the street.

Mr. Petryszyn stated it is plenty wide enough that you allow parking on both sides, so obviously emergency vehicles must be able to access it or you wouldn't allow parking on both sides.

Ms. Golazeski responded if a car is coming at you and cars are parked on both sides, the fire truck cannot proceed down the street without that car getting out of the way.

Mr. Petryszyn suggested we think about taking parking away from one side and on Baldwin Street also. Did the Police Department have an opinion on this?

Chairman Mazanek read correspondence from Chief Brent Dodge to Daria Golazeski.

Dee,

In regards to your question about prospective tenant parking from the proposed 19 Arch Street project, I do believe that the project could potentially cause a substantial increase in the amount of residents utilizing the municipal parking lots as the amount of on-street parking is limited. Any significant increase in the use of the municipal lots for residential parking could potentially adversely impact the availability of parking for the general public when patronizing Main Street area businesses, which would in turn hurt the businesses themselves. It is difficult to predict the extent of the potential impact as some of the variables are unknown, however I believe that some impact is likely.

**Brent Dodge**

Chief of Police

**Johnson City Police Department**

Mr. Petryszyn agreed some impact is likely no matter what you have in that building. He bought the building with the intent of putting a baseball academy in there. They were denied because they couldn't have any indoor activity in the building.

Daria Golazeski replied indoor recreational use is not a permitted use. They could get a use variance. They bought the building without investigating the zoning. Self-imposed hardship.

Mr. Cucciniello brought up UHS's lack of paying taxes on their properties and lots.

Ms. Golazeski and Ms. McElwee confirmed they pay taxes on the parking lots and some buildings depending on their use.

Mr. Poliziano asked for clarification as to how a person can apply for a variance when the building is not owned by them.



Attorney VanWhy responded it is allowed. When a contract vendee has permission of a landowner who is also here, he can apply for a variance applicable to that property.

Chairman Mazanek summarized the situation, as the current owner pointed out, he went and bought the building before he investigated whether he could use it for what he wanted to use it for and was denied. The potential new owner is pursuing a variance to determine whether or not he can do what he wants to do with the building before purchasing the property. It is definitely valid.

A motion to close the public hearing was made by Mr. Rowlands and seconded by Mr. Slota.

Motion Carried – Vote:

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

Chairman Mazanek read the Variance Request, Planning Board Recommendations and Department Head Comments.

**Variance Request:**

Armand Cucciniello submitted plans on behalf of Winding Brook Corporation to convert an existing commercial building to 20 apartments, adding three stories to a two-story building. The property is zoned Neighborhood Commercial and a multifamily dwelling is permitted.

The proposal does not conform to the Village of Johnson City zoning code and requires area variances. At the Planning Board meeting on November 25, 2019, the applicant stated that they were revising the site plan to show no parking spaces on site. Therefore, the variances requested changed to the following:

- 1) Per Section 300-51.3, the minimum number of parking spaces required is 32 parking spaces, 2 of which should be handicap accessible. The site plan has no parking spaces, requiring a variance of 32 spaces.
- 2) Per Section 21.5, table 21-4 limits the building height for a residential or commercial structure to 30 feet. The applicant is proposing a height of 49 feet 4 inches.

**Planning Board Recommendations:**

The Planning Board voted 3-1, one absent, to recommend the ZBA:

- 1) Deny the parking variance of 32 spaces; and
- 2) Deny the height variance of 19’4”.

The variance for the number of parking spaces is extreme (100%) in a heavily used area immediately opposite a hospital. On-street parking is already at a premium. In addition, per section 264-52, overnight parking in metered zones is prohibited, and the parking spaces in front of 19 Arch Street are metered. Section 264-54 states that monthly parking shall be permitted in metered parking stalls in municipal parking lots and at on-street parking meters except for Main, Harrison, Baldwin and Arch Streets. Backing into Arch Street could be dangerous, as described by BMTS.

The height variance is extreme and the resulting building would be out of character in the neighborhood.



**Department Head Comments and 239-Review:**

- **Code Enforcement:** recommend denial - variances are too large.
- **Fire Department:** Recommends denial.
- **J.C. Police:** Due to the magnitude of proposal, the Police Chief feels that it would place an overwhelming demand on the street for parking.
- **BMTS:** Backing into the street would result in traffic conflicts and safety impacts between vehicles exiting the site and vehicles and pedestrians traveling along Arch Street. The applicant should verify that there is adequate site distance for vehicles existing the site given the location of the subject building and the building to the north, as well as the fence located along the northern property line. The proposal includes a substantial variance from Johnson City's parking requirements. The applicant should be required to demonstrate that the variance is justified and to mitigate any parking impacts that may result from this proposal.
- **B.C. Planning Department:** has determined that the proposal would have negative county-wide and inter-community impacts, and recommends denial of the project as submitted. Comments are summarized as altering characteristics of the historic district, height variance is extreme, proposed building size out of proportion, and parking variances are excessive and do not meet the Village Code requirements of reducing hazards to pedestrians and providing adequate parking facilities to serve users of the property.

Chairman Mazanek is looking for the Zoning Board to discuss the balancing test to determine whether or not to approve or deny these variances.

Attorney VanWhy advised the Chairman it is appropriate if the Board would like the additional time to consider the comments that were made this evening, they do have 62 days from the close of the public hearing to make a final decision on the record. The motion would be tabled until next meeting with further action required. You would also have the potential to push it off another month if needed.

Mr. Rowlands asked Attorney Campbell if there has been any investigation into parking alternatives to help this parking situation instead of using municipal lots?

Attorney Campbell replied there is no other option.

Mr. Slota suggested buying a space on the street. He questioned ownership of the lots.

Ms. McElwee confirmed UHS demolished three of the houses that are south of this lot. They purchased the residences, abated them and the future use of those are undetermined today. As known, from other presentations that came before the Zoning Board, UHS purchased fourteen parcels in Johnson City to help alleviate their parking issues that were overrun into residential properties. That is how UHS is trying to manage the lack of or deficit of parking to suit their business and their patients on an everyday basis. They have purchased adjacent properties to their buildings and are going through the efforts of developing them for parking.



Dr. Holowinski re-questioned as to whether there has been any consideration to decreasing the number of apartments which would decrease the number of parking spaces required.

Ms. Intscher responded it is a financial balancing act of what they need in order to develop it and the money that has to come back out to make the project viable. The answer is no.

A motion to table the discussion until the next meeting on February 10, 2020 was made by Mr. Rowlands and seconded by Mr. Slota.

Motion Carried – Vote:

**Yes** – 4 (*Sas, Rowlands, Slota, Mazanek*)    **No** – 1 (*Holowinski*)    **Absent** – 0

Chairman Mazanek asks that the Board review the documents and consider the questions for the balancing test for this project and come back with ideas, statements and concerns in regards to the balancing test so we can discuss this at the next meeting and be prepared to make a motion.

### **ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Mazanek and seconded by Dr. Holowinski. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 8:25 pm

Respectfully submitted,

Kim Cunningham  
Zoning Board Clerk

