

Minutes of a regular meeting of the
Johnson City Planning Board held
on January 22, 2019 at 7:30pm at
243 Main St., Johnson City, NY

Present: Andrew Holbert, Vice Chairman
Greg Matyas
Mary Jacyna
Matthew Cunningham

Also Present: Keegan Coughlin, Attorney for the Village
Marina Lane, Town of Union Senior Planner
Kim Cunningham, Planning Board Clerk

Absent: Gerald Putman, Chairman

A brief work session was held at 7:00pm. The board discussed the agenda and reviewed the applications.

Vice Chairman Holbert called the meeting to order at 7:30pm and noted the emergency exits.

The voting of the Chairperson, Vice Chairperson and Secretary will be held at the next meeting due to all members not being present.

MINUTES

A motion to approve the minutes of the November 27, 2018 and December 17, 2018 regular meeting was made by Ms. Jacyna and seconded by Mr. Matyas. The motion carried with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR

Vice Chairman Holbert opened and closed the privilege of the floor, as no one spoke.

COMMUNICATIONS - None

CONTINGENCIES - None

OLD BUSINESS - None

NEW BUSINESS

207 Grand Avenue

Advisory Opinion re: Parking Variance

Steven Leung opened a 1,600 square-foot sit-down restaurant with take-out at 207 Grand Avenue in a Neighborhood Commercial Zoning District. The original floor plan showed 32 seats. There is no parking available on the site, and a 16-space parking variance was granted by the ZBA in 2017. Mr. Leung has submitted a revised floor plan providing seating for an additional sixteen (16) customers, for



a total of 48 seats, which requires an additional eight (8) parking spaces. Therefore, Mr. Leung has applied for an area variance for those eight (8) parking spaces.

Steven Leung appeared on behalf of the application. There is a wide open space in the center of the dining room so they have room for additional tables. The restaurant has a lot of takeout customers who walk-in and do not require a parking space. Mr. Leung took a survey of the area and counted a lot of available parking spaces on the cross streets. He submitted a map of available parking in the area to the Planning Board. They are not open in the morning on Sundays, so will not interfere with church parking.

Vice Chairman Holbert read the 239 Review and staff findings including Department Head Comments.

239-REVIEW AND DEPARTMENT HEAD COMMENTS

- **Code Enforcement:** – Maximum seating is 48 based on square footage of dining room. On street parking cannot be ear-marked for restaurant and can go away if conditions warrant. Maximum total occupancy is 52.
- **DPW** – It should be considered that if this variance is granted, there will be an increased demand for parking spaces upon the public streets. How will this increased demand affect the adjoining properties?
- **J.C. Police** – No compelling interest. I have not observed any issues with the current variance and I do not foresee any issue if the additional variance was granted.
- **J.C. Fire Dept.** – Patrons shall comply with the “No Parking” signs at the corners of the intersection to ensure all emergency vehicles have clear access through the intersection.
- **Broome County Planning Department** – Has not identified any significant countywide or intercommunity impacts.
- **NYS DOT:** - Have no comments due to the project’s distance from the State right-of-way and minimal traffic impact.
- **Planning Department Staff** recommends that the Planning Board recommend to the ZBA approval of the area variance for eight parking spaces. Attendees of the former uses in the building, a pharmacy and then VFW Hall, were able to park on the street or walk to the building without significant impact on the adjacent uses. Many patrons of the restaurant live nearby and walk to the restaurant for both sit-down and take-out service

Ms. Lane further explained the “no parking” space on the side of the restaurant. The Fire Chief wants to make sure people do not park or stand there. He requested that if restaurant managers see people parking or stopping in the space, please let them know that they should not. Mr. Leung acknowledged they will do so.

Ms. Lane confirmed the parking requirements are based on the number of seats. One parking space for every two seats in the restaurant. Maximum occupancy is 52 including cooks, wait staff and diners.

A motion to recommend to the Zoning Board of Appeals approval of an area variance for eight parking spaces was made by Ms. Jacyna and seconded by Mr. Matyas.

Motion Carried - Vote:

Yes – 4 (*Matyas, Jacyna, Cunningham, Holbert*) **No** – 0 **Absent** – 1 (*Putman*)



100 Oakdale Road

Declare Lead Agency, Declare project Type II Action
Site Plan Review – Change location of pergola

A motion to declare the Planning Board lead agency was made by Mr. Matyas and seconded by Ms. Jacyna.

Motion Carried - Vote:

Yes – 4 (Matyas, Jacyna, Cunningham, Holbert) No – 0 Absent – 1 (Putman)

Attorney Coughlin stated he can only give procedural responses in this action.

A motion to declare the project at 100 Oakdale Road a Type II Action and issue a negative declaration was made by Mr. Matyas and seconded by Ms. Jacyna.

Motion Carried - Vote:

Yes – 4 (Matyas, Jacyna, Cunningham, Holbert) No – 0 Absent – 1 (Putman)

Vice Chairman Holbert read the site plan request.

Site Plan Request:

In September 2018, the Planning Board approved the special permit application by Oakdale Road Holdings, LLC for the seasonal outdoor display of a wood pergola sold by Oasis Stone Scapes at the landscaping business located at 100 Oakdale Road. At that time, the site plan showed the pergola covering two parking spaces in the southeastern-most corner of the parking lot, the farthest from the entrance as possible. The pergola was subsequently placed over three parking spaces in the northwestern-most corner of the parking lot, adjacent to the entrance. The property was cited by Code Enforcement for non-compliance with the approved site plan.

Oasis Stone Scapes, LLC applied for a revised site plan with the location of the 12'2" by 24'4" pergola along the western border of the property, adjacent to Oakdale Road, 36 to 40-feet south of the entrance.

John Sacco, the owner of Oasis Stone Scapes and part owner in Oakdale Road Holdings, appeared on behalf of the application. Although the business opened a show room, an independent marketing company concluded that the building had been vacant for so long, it still appears to be a vacant building when people drive by. Oasis Stone Scapes is trying to break that mindset and give potential customers something that draws their eye to what they have to offer. Mr. Sacco submitted pictures from where people stop to pull out onto the road, showing that the structure does not obstruct the view as they exit.

Mr. Matyas asked how high the pergola structure is. Mr. Sacco responded approximately 9'4".

Vice Chairman Holbert asked if they plan to put anything underneath the pergola. Mr. Sacco answered that they may on a seasonal basis. They factored in with their second application that the display would not obstruct the view when leaving the property.



Mr. Cunningham asked Mr. Sacco to confirm that the weight will hold the structure down and that it is not anchored in any way. Mr. Sacco responded that it is not anchored in any way. The pergola is for sale, so they can pick it up in two pieces and transport it to another site. The structure weighs a little over the 1,000 lbs.

Mr. Sacco confirmed the following:

- There are no curbs or sidewalks.
- There are no wheel stops; the guiderail is used for that.
- The pergola was placed on the back corners of the parking spaces instead of the front corners of the parking spaces to give a buffer between the guiderail and the structure.
- There would be no problem with a fire truck coming in and turning around as tractor trailers sometimes come in by accident and are able to turn around.

Vice Chairman Holbert read the 239-Review comments, and Department Head Comments including Planning staff recommendations.

Environmental and 239-Review:

The project was subject to a 239-Review as it is within 500 feet of New York State Route 17 and the Town of Union. The applicant's proposal is considered a Type II Action under the New York State Environmental Quality Review Act (SEQRA), as the accessory structure takes up less than 4,000 square-feet. A SWPPP was not required as there is no soil disturbance associated with the outdoor display on the paved parking lot. The following comments are from the 239-Review and department heads:

- **B. C. Planning:** found no significant county-wide or inter-community impacts associated with the project. The department did recommend the Planning Board should remind the applicant of the hazards of development in the preliminary floodplain.
- **Code Enforcement:** - proposed location could create visibility issue for cars entering/exiting driveway. If placed at proposed location, nothing should be stored/displayed inside structure nor should any sides be placed on structure; leave totally open for visibility.
- **Fire Department:** No compelling interest.
- **Police Department:** No compelling interest.
- **Public Works & Water:** The owner should determine the location of the property's underground utilities to determine if the utilities are located beneath the display. If they are, it would be prudent that the owner have a plan in place to remove the display quickly in the case of any needed repairs to the utilities.
- **Planning Department Staff** recommends denial of the Revised Site Plan for Outdoor Display. Per Section 33-63.5D, the proposed structure unnecessarily detrimentally modifies or interferes with the significant design features of the existing buildings and structure on the site. Staff recommend the pergola be placed at the original approved location. Then sample items could be placed under the pergola.

If the Planning Board approves the revised site plan, staff recommends the following conditions:

- 1) The outdoor display area shall not block automotive traffic, fire lanes, or other travel lanes.
- 2) The items for display are for sale and said area is not used for storage purposes.



- 3) The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:
 - a) This special permit is not transferable except upon approval by resolution of the issuing board.
 - b) This special permit shall authorize only one special use, the seasonal outdoor display of landscaping elements, and shall expire if the landscaping business ceases for one year for any reason.

Ms. Lane explains that Ms. Golazeski stated this is not considered a structure because it doesn't have a roof; therefore it doesn't need to comply with setback requirements.

Ms. Golazeski made a recommendation that if it is against the western edge of the property as proposed, nothing should be displayed under it because of visibility concerns. Planning Board members reviewed the submitted photos in order to make their determination regarding this recommendation.

Mr. Matyas made a motion to approve the revised site plan based on 1) The outdoor display area shall not block automotive traffic, fire lanes, or other travel lanes; 2) The items for display are for sale and said area is not used for storage purposes; and 3) the Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11 Transferability, with Public Works comments. Mr. Cunningham seconded the motion.

Motion Carried - Vote:

Yes – 4 (Matyas, Jacyna, Cunningham, Holbert) No – 0 Absent – 1 (Putman)

ADJOURNMENT

A motion to adjourn the Planning Board Meeting was made by Mr. Matyas and seconded by Mrs. Jacyna. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 8:02pm.

Respectfully submitted,

Kim Cunningham
Planning Board Clerk

