

Minutes of a regular meeting of the
Johnson City Zoning Board of Appeals held on
January 9, 2017 at 7:30pm at
243 Main St., Johnson City, NY

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

Absent: Charles Snedaker

Also Present: Diane Busko, Clerk to the Planning & Zoning Boards
Jeff Jacobs, Attorney for the Village
Kurt Schrader, Attorney for the Village (100 Oakdale Road)
Daria Golazeski, Town of Union DCPW/C&O
Mayor Gregory Deemie

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 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 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. Vernon Rowlands as Secretary was made by Dr. Holowinski and seconded by Mr. Sas. 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 November 14, 2016 regular meeting was made by Mr. Rowlands and seconded by Mr. Sas. The motion carried with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR - None

COMMUNICATIONS - None

CONTINGENCIES - None

OLD BUSINESS - None

NEW BUSINESS - None

HOCHO Recycle Co., Ltd. – 100 Oakdale Road
Public Hearing - Variance

HOCHO Recycle Inc., has submitted an application for a new tire recycling business to be located in 25,632 square-feet of the existing 120,729 square-foot warehouse at 100 Oakdale



Road. Per Section 272-5.A, for any development within the Village of Johnson City Aquifer District, any use of property which uses, distributes or stores petroleum products, toxic materials or hazardous materials when such distribution, storage or use exceeds 25 gallons per month or 220 pounds, whichever is less, requires an aquifer permit. This property is located in Zone 1 of the Aquifer district, and due to the use and storage of several tons of petroleum-based and/or hazardous/toxic chemicals, the project requires an aquifer permit. There is an additional restriction regarding uses and materials in the Aquifer District, per § 272-12, *C. The establishment of any solid waste management or waste treatment facility that would require a 6 NYCRR 360 permit is prohibited.* This project does require a 6 NYCRR 360 tire tracking permit from the NYS DEC because they plan to store used tires on site before they are shredded. The DEC requires that all used tires be tracked as they are moved and processed. The applicant is requesting a variance from the Code to allow the storage of waste tires on site. § 272-17 Requirements for variances.

A. An owner who experiences unnecessary hardship as a consequence of the literal interpretation of the provisions of this chapter may request a hearing by the Zoning Board of Appeals of the Village of Johnson City. The Board of Appeals may grant a variance of the requirements of this chapter if the Board finds that the health, welfare and safety of the public will be protected.

Paul Woodward with Keystone Associates, site engineer for the applicant, was present.

Chairman Mazanek opened the public hearing.

Mr. Woodward reviewed the project and the process for handling the tires. The tires will arrive on tractor trailers which will go to the loading dock. There the tires will be sorted as they come off of the trucks and put into different categories. Any tires that can be recapped is sent back to the manufacturer to be reused. Those tires will be set aside in the storage area. The sidewalls can also go back to the manufacturer and will be set aside in the storage area. The third category of tires that will be stored there are tires for production that they can't keep up with (overflow). The amount of time that these items will be in storage will be minimal.

Chairman Mazanek asked if the storage will be open. Mr. Woodward stated it will be fenced in and covered. They have applied for permits from the DEC for tire tracking.

Mr. Sas asked how it will be covered. Mr. Woodward stated it will be fully covered.

Chairman Mazanek asked if it would be more efficient to store the tires in the trailers rather than outside. Mr. Woodward explained that no it wouldn't be because of the processing of the tires.

Chairman Mazanek asked if there is any kind of chemical processing. Mr. Woodward explained that they are going through the aquifer permit process. Chairman Mazanek asked if any of the chemicals are used in the processing of the tires. Mr. Woodward stated yes but that is all on the inside of the building.

Mr. Rowlands asked what the longest time the tires will be stored outside will be. Mr. Woodward stated that it would be within a week.



Chairman Mazanek asked about the likelihood of noxious fumes coming from the building. Mr. Woodward explained that the gases given off from the production itself - there is a monitoring point in the back and they are applying to the DEC for that. They are non-evasive, not a strong odor.

Mr. Sas asked about the timeline. Mr. Woodward explained that they have already met with the aquifer committee and had the initial meeting with the Planning Board last month. They are hoping to get final approval this month. They hope to hear back from the DEC later this month or early next month.

Mr. Rowlands asked if the storage area is next to any source of possible ignition. Mr. Woodward stated no. Everything is stored inside and separated out. The chemicals themselves are non-explosive. They have been working with the Fire Department on fire suppression. They have provided the MSDS sheets to the Fire Department.

Attorney Schrader explained the variance being requested.

Chairman Mazanek closed the public hearing.

Chairman Mazanek read the Department Comments/Recommendations.

Department Comments/Recommendations

Planning Dept: The Planning Department staff recommends that the Planning Board recommend to the ZBA approval of the variance and allow the storage of waste tires on site. The intent of the Code when written pertained primarily to large landfills and waste treatment plants. The applicants are working closely with the DEC to acquire the permit which requires that each tire be tracked. The intent of the shredding operation is actually to benefit the environment by preventing the dumping of tires which release toxic chemicals as they deteriorate or if they should burn, and can serve as breeding grounds for mosquitoes.

The Town-wide Wellhead Advisory Committee met with the applicants to determine best practice methods for the storage of the chemicals associated with end product of the shredded tires. The Broome County Health Department and the NYS DEC have determined the safe use and storage of the associated chemicals and tires is possible, and the Wellhead Advisory Committee shall make their recommendation to the Planning Board at the time when the Aquifer Permit is under review. If the variance is granted, the application shall come to the Planning Board for a Special Permit for Manufacturing - Waste Products or Materials, an Aquifer Permit, and Site Plan review.

JC Planning Board: Recommend approval of the variance.

A motion to approve a variance to allow the storage of waste tires on site was made by Mr. Rowlands and seconded by Mr. Sas.

Motion Carried – Vote:

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



DJS Properties, LLC - 201 Oakdale Road

SEQR

Public Hearing – Variance

DJS Properties, LLC, submitted a sign permit application to add a new tenant sign for Allstate Insurance to the current plaza pylon sign located at 201 Oakdale Road. The property is zoned General Commercial and the maximum square footage of a pylon sign in a General Commercial zoning district is 80 square feet. Therefore, an area variance is requested to add the new sign to the 21st Century Sbarra & Wells signpost. The application is not clear. One view shows an educational sign, and another view shows the back of what appears to be an educational sign. The new sign measures 2' x 8' (16 square feet) and would be placed beneath the existing 21st Century sign. The existing sign is 198 square-feet, and the additional sign would result in a total of 214 square-feet. Therefore, DJS Properties LLC, is requesting an area variance as follows:

- 1) An area variance for an additional 16 square feet to existing pylon sign, for a total square footage of 214 square feet, or 2.67 times the permitted 80 square feet.

The applicant changed their signage plans and, as a result, no longer needs a variance, so the variance application was withdrawn.

Al Amin GK, LLC - 226 Baldwin Street

SEQR

Public Hearing – Multiple Variances

Mr. Fred J. Brown, III has applied, on behalf of Al Amin GK, LLC, for the renovation of apartments at 226 Baldwin Street. The property is zoned Urban Multi-family and the previous use was an eight-family dwelling. The property has been vacant for more than one (1) year and therefore has lost its grandfathering for eight family units. Area variances have been applied for so that the 226 Baldwin Street building will be permitted to have eight apartments again. The proposal includes one two-bedroom apartment, one studio apartment, and one three-bedroom apartment on the first floor, one two-bedroom apartment, one studio apartment and one three-bedroom apartment on the second floor; and two apartments: two three-bedroom apartments on the third floor. The lot area for an 8-unit building is 2,500 square feet per unit, therefore a 20,000 square foot lot is required. The lot width for a multi-unit building is 25 feet per dwelling unit, therefore 200 feet lot width is required. A 20 feet parking setback and a 20-foot access driveway are required for a multifamily unit. Either a 10-foot setback of the parking from one and two-family dwellings or screening is also required. Therefore, the following area variances are requested from the Zoning Board of Appeals.

- 1) A 10,400 square feet variance for the lot area for an 8-unit building
- 2) A 120 feet variance for the lot width
- 3) A 20-foot parking setback from any property line.
- 4) A recreation area for multi-family unit that is 226 square feet less than the 400 required.
- 5) A 5-foot variance for the access driveway
- 6) Screen of parking from 1 and 2 family dwellings of 10 feet

The applicant's proposal is considered an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Zoning Board of Appeals will be the Lead Agency for the variance application. The project does not require a 239-Review.



Mr. Fred Brown and Mr. Al Amin were present on behalf of the application.

Chairman Mazanek opened the public hearing.

Mr. Brown reviewed the plans to renovate the building and 8 apartments and showed the Board pictures of some of the work. Mr. Brown stated that there is enough space for all of the parking spaces needed. A sprinkler system will be installed. The lease agreement will have background checks and the rent will be high enough to weed out undesirable tenants.

Mr. Rowlands asked about the types of tenants. Will they be students, elderly? Mr. Brown stated no, they will be medical professionals, etc.

Mr. Rowlands commented on the substantial size of the variances. Mr. Brown stated that he felt that the apartments are an ample size.

Mr. Sas asked if there will be an onsite manager. Mr. Brown stated that he will be the manager. He is local but not onsite.

Mr. Sas explained the variances and the responsibility that the Board has. Mr. Sas asked what the options for scaling the project back. Mr. Brown stated that there are no options. It must be 8 units. They are trying to revitalize a building and get decent tenants.

Scott Detrick, Baldwin Street – Has lived across the street for 17 years. The catch basin in the parking lot has been paved over and there is water in the basement when it rains hard. The foundation is sinking and the houses are very close together. Snow removal is always an issue. Asked if the exterior of the building will be worked on. Mr. Brown stated that they will paint or side the building in the spring and they will fix the porches. The basement has been re-supported but he wants to get it checked. They are looking for long term tenants.

Mr. Amin stated that the building belongs to an LLC and they have high standards for tenants. They want doctors, nurses, etc. There will be a superintendent.

Chairman Mazanek asked about the location of the dumpster. Mr. Brown stated that he is not sure of the location. He wants to speak to the owner of the shared driveway. Chairman Mazanek stated that there are setback rules for dumpsters. Ms. Golazeski stated that they need to be screened and there may be a setback issue. There is also a time restriction for pick up.

Chairman Mazanek asked if the property next door is a rental. Mr. Brown stated yes, three units.

Chairman Mazanek asked about the stormwater issue. Mr. Brown stated that he has heard that there is an issue and he wants to get an engineer. He also stated that there is enough room to fence the dumpster.

Attorney Jacobs explained that the current state of the building is 8 apartments but the code records only reference 6 apartments. Mr. Brown stated that there used to be 13 apartments once.



Mr. Detrick stated that the most he ever knew to be in there was 7 apartments. Now there were 6 apartments.

Carol (last name not given), Baldwin Street – has lived there for 30 years. Stated that there used to be 2 apartments in the basement which flooded. Every time it rains hard the yard floods. If the back yard is all paved it will flood bad.

Mr. Amin stated that they will invest in drains for the water. They need 8 apartments to make money. Chairman Mazanek stated that the drain doesn't work and asked how deep the water gets. An unidentified neighbor stated that she has seen people able to swim in the back yard. Mr. Brown stated that in the last 5 or 6 months he has not seen any standing water. He then stated maybe 2 inches.

Chairman Mazanek closed the public hearing.

Attorney Jacobs reviewed the criteria and factors the must consider for granting variances.

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. Rowlands 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 – 4 (*Holowinski, Sas, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Snedaker*)

Chairman Mazanek read the department head comments.

DEPARTMENT HEAD COMMENTS

Code Enforcement: Garbage area must be screened.

§ 300-54.6. Screened dumpster or service area requirements.

In any district, all areas designated, used or intended to be used as dumpster or service areas for any building or land use, other than one-family and two-family dwelling units, shall be screened from view with either a wall, a solid fence or a combination of fencing and evergreens creating a solid visual barrier to a height of at least five feet above grade level on all sides where the adjacent land is in a residential district or a residential use. Plans, building permits, and Johnson City-licensed contractors will be required for plumbing and electrical work.

Fire Dept: No compelling interest at this time. When 226 Baldwin St. comes up for site plan they will have comments at that time.

DPW: Parking concerns and solid waste concerns with 8 units. There is a documented history of solid waste and property maintenance. If



approved, will need a property manager 24-hour contact phone number supplied to Code & DPW.

JC Police:

With respect to public safety interests regarding to 226 Baldwin Street, the police have significant concerns due to the substantial history of problems that have occurred as a result of the actions of the past inhabitants of that building. During the past two decades, at any time 226 Baldwin has been inhabited, it has been a hotbed of disturbances and illegal activity. The police have gone door to door in that neighborhood in the past and spoken with several residents who were fearful of the day that 226 Baldwin was re-opened to tenants because of its long history of problems.

A quick search of the current owner, Al Amin GK LLC, reveals that they have little history having only been formed last year. They also appear to be based out of the downstate area which raises a strong concern about them being absentee landlords. As we're sure the board is well aware, large apartment buildings with absentee landlords in this Village often pose quality of life problems for their neighbors which aren't easily addressable.

Given the previous deplorable condition of the building, and the fact that it has been vacant for so many years during which time it has likely further degraded, the police are concerned that it will be a slum-like property unless it is completely gutted and renovated, which was not indicated in the application.

The concern is that this project does not sound extensive enough, and that it will not attract desirable tenants who are properly monitored by a local representative which will result in the further decline of a neighborhood that is already in need of assistance.

Planning Dept.:

The Planning Department recommends the Planning Board recommend to the ZBA denial of:

- 1) A 10,400 square feet variance for the lot area for an 8-unit building
- 2) A 120 feet variance for the lot width.

The Planning Department recommends the Planning Board recommend to the ZBA approval of:

- 3) A 20-foot parking setback,
- 4) A recreation area for multi-family unit that is 226 square feet less than the 400 required
- 5) A 5-foot variance for the access driveway.

The Planning Department recommends the Planning Board require screening of the parking from 1 and 2 family dwellings of 10 feet, should the project for a multi-family use progress to site plan review. The building is three-stories, and the lot can more easily support three (3) apartments, which would still require area variances, but fewer than requested. The lot meets the requirements for square-footage and lot



width for a three-family. The driveway width, recreation area of 400 square feet, and screening for the parking lot are not unsurmountable. If the variances are approved, the Code Department has stated that plans, permits, and Johnson City – licensed contractors will be required for plumbing and electrical work.

JC Planning Board: No recommendation on variances for 1) A 10,400 square feet variance for the lot area for an 8-unit building or 2) A 120 feet variance for the lot width. (Vote Failed) Recommend approval of variances for 1) A 20-foot parking setback, 2) A recreation area for multi-family unit that is 226 square feet less than the 400 required and 3) A 5-foot variance for the access driveway.

A motion to approve a 10,400 square feet variance for the lot area for an 8-unit building was made by Mr. Rowlands and seconded by Dr. Holowinski.

Motion Carried – Vote:

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

A motion to approve a 120 feet variance for the lot width was made by Mr. Rowlands and seconded by Dr. Holowinski.

Motion Carried – Vote:

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

A motion to approve a 20-foot parking setback was made by Mr. Rowlands and seconded by Mr. Sas.

Motion Carried – Vote:

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

A motion to approve a recreation area for multi-family unit that is 226 square feet less than the 400 square feet required was made by Mr. Rowlands and seconded by Mr. Sas.

Motion Carried – Vote:

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

A motion to approve a 5-foot variance for the access driveway was made by Mr. Rowlands and seconded by Dr. Holowinski.

Motion Carried – Vote:

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

A motion to approve a 100% variance of the 10 feet setback from the required screening of parking from 1 and 2 family dwellings with the condition that any such area would be required to be screened from the adjoining 1 and 2 family homes was made by Mr. Rowlands and seconded by Mr. Sas

Motion Carried – Vote:

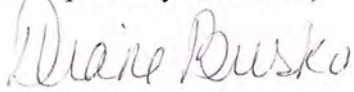
Yes – 4 (*Holowinski, Sas, Rowlands, Mazanek*) **No** – 0 **Absent** – 1 (*Snedaker*)



ADJOURNMENT

A motion to adjourn the meeting at 8:55pm was made by Mr. Rowlands and seconded by Chairman Mazanek.

Respectfully submitted,



Diane Busko
Zoning Board Clerk

