

Minutes of a regular meeting of the
Johnson City Zoning Board of Appeals held on
August 14, 2017 at 7:30pm at
243 Main St., Johnson City, NY

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

Absent: Vernon Rowlands, Secretary

Also Present: Diane Busko, Clerk to the Planning & Zoning Boards
Nathan VanWhy, Attorney for the Village
Daria Golazeski, Town of Union DCPW/C&O
Trustee John Walker

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

A motion to approve the minutes of the July 10, 2017 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

OLD BUSINESS - None

NEW BUSINESS - None

American Sign/Spirit Halloween – 560 Harry L. Drive
SEQRA & Public Hearing – area variance

American Sign & Engraving has submitted an application on behalf of Spirit Halloween to install a temporary banner on the rear face of the commercial building at 560 Harry L Drive, the former Weis Market space. Per Code 300-52.5, a banner may be permitted only as a temporary sign to communicate the opening of a new business for a total of 10 days. The banner measures 4' by 20' and would be attached to the rear of the building facing Route 17. American Sign & Engraving is applying for an area variance to extend the allowable time for Spirit Halloween to display the temporary banner from 10 days to 90 days. The same variance was granted in 2016 by the Zoning Board of Appeals.

Mr. Kevin Reardon was present on behalf of the application.

Chairman Mazanek opened the public hearing.



Dr. Holowinski asked if it is the same banner as last year. Mr. Reardon explained that yes it is.

SEQRA

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

Chairman Mazanek closed the public hearing.

Area Variance

Mr. Reardon explained that if this is approved the sign would go up by the end of business tomorrow.

Chairman Mazanek read the department head comments.

DEPARTMENT HEAD COMMENTS

Planning Staff: The Planning Department staff recommends approval of the time period for the display of the banner to 90 days, to be located on the rear of the former Weis building on the same space as were mounted previously permitted signs. As recommended by the NYS DOT and BC Planning the previous year, Planning staff recommends the banner be removed as soon as the Halloween store closes for the season. Previously, Giant Markets and Weis Market had a sign in the same space on the rear of the building. The new business is seasonal, and the owners would like visibility from Route 17 for potential customers prior to Halloween.

Planning Board: Recommend approval of a variance to extend the time period for the display of a banner for up to no more than 90 days with removal by November 2, 2017.

A motion to approve a variance to extend the time period for the display of a banner for up to 90 days including the department head comments was made by Mr. Sas and seconded by Dr. Holowinski.

Motion Carried – Vote:

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

Mr. Reardon asked if there was any way to grant this variance on a more permanent basis. Attorney VanWhy explained that yes they will have to return every year as this is a literal banner and the code only currently allows banners as temporary signs. It would take the Village Board amending the Zoning Code to change this.



Helene Friedah – 187 Baldwin Street
Public Hearing – area variance

The application is a request for an area variance to reduce the minimum required side setback be reduced from 5ft. to 0ft. for the construction of an awning.

The applicant, Ms. Helene Friedah, was present.

Chairman Mazanek opened the public hearing.

Mr. Sas asked what the materials are. Ms. Friedah stated that it is wrought iron posts with metal. There will be a slight slope to the side.

Mr. Snedaker asked what her drainage plan is. Ms. Friedah stated just what there is now. Mr. Snedaker asked if the water will go onto the neighbor's property. Ms. Friedah stated that she doesn't know. She could do a gutter. Mr. Snedaker stated that she needs to somehow direct the water off of the neighbor's property.

Mr. Snedaker asked what the purpose of the structure was. Ms. Friedah stated that it is a carport.

Attorney VanWhy asked if there are any others in the area. Ms. Golazeski stated not that she could recall. There is an awning on the other side of the house.

Mr. Sas expressed concern with issues in the winter with snow and ice impacting the neighbor's property.

Chairman Mazanek asked if there were any calls regarding the variance. Zoning Board Clerk Busko stated no.

Mr. Snedaker asked if the neighbor has been spoken to regarding this. Ms. Friedah stated yes and they have no problem with this.

Attorney VanWhy reviewed the factors for granting a variance.

Chairman Mazanek closed the public hearing and read the staff report and department head comments.

DEPARTMENT HEAD COMMENTS:

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|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| DPW & Water: | NCI |
| Code Enforcement: | Must be metal awning. |
| Police Dept.: | No comments submitted. |
| Fire Dept.: | If the plan is done with none combustible materials would be ok. |
| Planning Dept.: | Appears that the awning would block a significant amount of natural light for the adjacent residents, therefore recommend denial. |
| Planning Board: | N/A residential application |



A motion to approve the variance including the department head comments was made by Mr. Snedaker and seconded by Dr. Holowinski.

Motion Carried – Vote:

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

AOM 128 Grand Avenue, LLC - 128 Grand Avenue
Public Hearing – multiple variances

Robert Warholic of Delta Engineering, on behalf of AOM 128 Grand Avenue LLC, has applied for the construction of a contemporary three-story, multi-family residential building at 128 Grand Avenue. The property is zoned Urban Multi-Family and the use is permitted by right. The existing retail store on the lot shall be demolished. The proposed twenty-four units are comprised of twelve 3-bedroom units, six 2-bedroom units and six 1 bedroom units. The proposal includes a gated perimeter, as well as the required recreational area and landscaping. The applicant has applied for area variances in order to construct the building as designed.

1. A 20' front yard setback along Grand Avenue is required and the proposed setback is 10';
2. A 20' front yard setback along Sherman Street is required and the proposed setback is 1'6";
3. The property area required for 24 units is 60,000 square-feet, 29,620 square-feet is provided;
4. The required lot width for the 24-unit building is 600 feet and 130'10" is proposed;
5. The required side yard setback is 10' and the proposed side setback to the west is 1'6";
6. The parking area requires a 20 foot setback from any property line, and no parking in the front yard. The proposed parking area is located in the front yard of Sherman Street, 5 feet from the side yard, 7 feet from the rear yard, and 1'6" from the front yard on Sherman Street;
7. The number and types of apartments requires 45 parking spaces; 40 spaces are available.

Mr. Praveen Kamath with AOM 128 Grand Avenue, LLC was present.

Chairman Mazanek opened the public hearing.

Mr. Kamath briefly reviewed the project.

Ms. Sas asked if it a gated property. Mr. Kamath stated yes. The entrance will be on Sherman Street. There will be electronic fobs for the residents to operate the gate. Fobs will be given to the Police and Fire Departments.

Mr. Snedaker asked about a dumpster. Mr. Kamath explained that each floor will have its own trash area. They will be using a private hauler.

Attorney Van Why stated that the existing building is already right up to the adjacent lot. The new building is moving away from the residences and closer to Grand Avenue.

Chairman Mazanek closed the public hearing and read the department head comments.



Department Head Comments:

Code Enforcement: Plans, building permits, and Johnson City-licensed contractors will be required for plumbing and electrical work. Gate shall unlock should the fire alarm go off, or gate shall be “exit only” unlocked. Building shall be sprinklered.

Fire Department: No concerns at this time.

DPW: Comments are pending.

Police: If this is going to be a gated property, the PD would need to be issued 22 access cards, one for each police vehicle, so that we can respond and access the property. Otherwise, our response would be delayed until we can make contact with a key-holder to let us in.

Planning Staff: Recommends the Planning Board recommend to the ZBA approval of:

1. A 10’ front yard setback along Grand Avenue;
2. A 18’6” front yard setback along Sherman Street;
3. A 30,380 square foot area variance for the lot area for a 24- unit building;
4. A 469’2” variance for the lot frontage;
5. An 8’6” foot side yard setback;
6. Parking area in the front yard along Sherman Street, and parking area setbacks 15’ from the side yard, 13’ from the rear yard and 18’6” from Sherman Street; and
7. An area parking variance of 5 parking spaces.

The developer is proposing the number of apartment units necessary in order to make the project cost-effective. The proposal decreases the footprint as compared to the existing building, and has similar setback issues as the existing building. The proposed building is along Grand Avenue as are the two adjacent two-story multi-family buildings. Although the parking does not fully meet the required number, the appropriate number of accessible spaces are provided, and there is bus transportation available.

Planning Board: Recommend approval of all 7 variances

A motion to approve the following variances; 1.) Variance to reduce the minimum required 20’ front yard setback along Grand Avenue to 10’; 2.) Variance to reduce the minimum required 20’ front yard setback along Sherman Street to 1’6”; 3.) Variance to reduce the minimum required lot size required for 24 units from 60,000 square-feet to 29,620 square-feet; 4.) Variance to reduce the minimum required lot width for the 24-unit building from 600 feet to 130’10”; 5.) Variance to reduce the minimum required side yard setback to the west from 10’ to 1’6”; 6.) Variance to reduce the minimum required parking area setback from 20 feet from any property line, and no parking in the front yard to 5 feet from the side yard, 7 feet from the rear yard, and 1’6” from the front yard on Sherman Street; 7) Variance to reduce the minimum required 45 parking spaces to 40 spaces; including the department head comments was made by Mr. Sas and seconded by Mr. Snedaker.

Motion Carried – Vote:

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



Marc Diller – 73 Pratt Avenue
Public Hearing – area variance

The application is a request for a variance to allow a six foot high solid fence with a zero street setback along Lowell Avenue and Diment Street and a variance to allow a six foot high solid fence within the visibility triangle.

The applicant, Mr. Marc Diller, was present.

Chairman Mazanek opened the public hearing.

Mr. Diller explained that they wish to put the fence in to increase their property value, for the safety of their future children and for privacy.

Dr. Holowinski asked how long they have lived at the property. Mr. Diller stated since December. The worker's at the adjacent Salamida's factory are always outside eating lunch, smoking, etc. They would like privacy from this.

Attorney VanWhy asked about traffic on Lowell Avenue. Mr. Diller stated that it is rare for there to be traffic on Lowell.

Chairman Mazanek asked what the distance was from the corner to where they are going to place the fence. Mr. Diller explained it is 20ft.

Mr. Sas asked if a survey was done. Mr. Diller stated that when they moved in they were given the tax lines.

Chairman Mazanek asked if there was a car length's distance between the stop sign and the edge of the fence. Mr. Diller stated yes.

Mr. Snedaker asked about the visibility triangle. Chairman Mazanek explained that the property line is in 20ft. not at the edge of the property.

Chairman Mazanek closed the public hearing.

Chairman Mazanek read the department head comments.

DEPARTMENT HEAD COMMENTS:

Code Enforcement: Must make sure not in right of way.

DPW & Water: Recommend denial of fence within the 25 feet triangle due limited site distance at the intersection. Recommend denial of zero feet offset, with no curbing or sidewalk, fence has the potential to be damaged by snow plowing operation during large snow events.

Police Dept.: 1) Would the zero setback allow for the fence to be built right up to the pavement or is there an easement/ROW setback built in that would keep the fence a certain distance away from the street? 2) Building a 6' solid fence within the visibility triangle would certainly decrease the driver's visibility of vehicles coming off from Lowell Ave and it would also



create a safety concern for vehicles traveling on Diment St. not being able to see pedestrians (kids) or bicycles on Lowell Ave approaching Diment St.

Fire Dept.: No concerns.

Planning Dept.: Recommend denial. A solid, 6-foot high fence isn't necessary for safety, and I think lack of visibility for drivers would be an issue.

JC Planning Board: N/A residential application

Chairman Mazanek asked for a motion taking into consideration that the property line is in quite a bit.

A motion to approve a variance to allow a six foot high solid fence with a zero street setback along Lowell Avenue and Diment Street and a variance to allow a six foot high solid fence within the visibility triangle including the department head comments was made by Dr. Holowinski and seconded by Mr. Snedaker.

Motion Carried – Vote:

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

ADJOURNMENT

Chairman Mazanek adjourned the meeting at 8:30pm.

Respectfully submitted,

Diane Busko
Zoning Board Clerk

