

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
FEBRUARY 25, 2013**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Bogar. Board Members present were John Montrose, Fred Kiehm, and Karen Stanislaus. Board Members absent: Tim Tallman, Taras Tesak, and Lenora Murad. Also in attendance were Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, Councilmen David Reynolds, Richard Woodland and Paul Miscione, and Recording Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. He also noted that we are down three (3) Board Members and the applicants would need all four (4) votes tonight from the members in attendance for approval. He left it to the applicants whether to proceed or not.

The application of Mr. Michael Sheridan, P.E., for **Mr. Robert Cunningham (Cunningham Coins building), 4528 Commercial Drive, New Hartford, New York**. The applicant is located in a Retail Business 1 zone, which requires one (1) parking space per 200 square feet of building. The applicant is required to have 32 parking spaces but only providing 23. Therefore, the applicant is seeking a quantity Area Variance for nine (9) parking spaces. Tax Map #328.008-1-17; Lot Size: .73 Acres; Zoning: Retail Business 1. Tabled at the December 17, 2012 Zoning Board meeting.

Mr. Sheridan appeared before the Board and explained that he has been trying to contact NYSDOT for an answer regarding the right-of-way on Commercial Drive. He has been told that they are close to a decision, but he has not received anything in writing. Therefore, he is again asking for a postponement until the March 18, 2013 meeting. He is sure he should have a response by then.

At this time, Mr. Sheridan asked what the procedure would be if he changed the application. Attorney Cully said he could but he would have to start over from the beginning. Mr. Sheridan asked to be placed on the March 18, 2013 agenda with the current submittal.

Chairman Bogar asked if there was anyone present to address this application – no response.

Motion was made by Board Member Fred Kiehm to **postpone this application to the March 18, 2013** Zoning Board meeting; seconded by Board Member John Montrose. All present in favor. Discussion ended at approximately 6:15 P.M.

The application of **Ms. Candice Hobin** who is requesting a Use Variance for apartments at this site on **3900 Oneida Street** (former Massoud's building – next to the Washington Mills Post Office). Apartments are not an allowed use in a Retail Business 2 zone, thus, necessitating a Use Variance request. Tax Map #339.016-1-48.1; Lot Size: 2.56 Acres; Zoning: Retail Business 2. Ms. Candice Hobin appeared before the Board with Mr. Steve Buck of Buck Construction Company.

Ms. Hobin stated she has had the property for sale for two (2) years without any success. Mr. Buck has now expressed an interest to place 32 apartments at this site. The building is in a foreclosure process.

Mr. Buck submitted a picture of what the project might look like. He said the property in its current condition is in need of repair – the new renovations will have a commercial and mixed use affect. Their preference is to have another building on the site. Board Member Kiehm asked about the existing building and whether it will be taken down – Mr. Buck said no. It was stated if they are successful in getting the variance; under Planning Board Site Plan Review they may have them put a second floor on the building. Board Member Montrose asked if they were in a flood plain – Mr. Buck said yes but he doesn't think it is extensive (there was no paperwork submitted regarding the flood plain area).

At this time, Mr. Buck displayed a copy of a map. Chairman Bogar asked where this map came from that is dated May 11, 2009. Ms. Hobin said it is a map of the property that was approved by the Planning Board for a former business of hers known as Pet Paradise, which did not go forward. Mr. Buck had written in where he thought the buildings would be placed. He also stated he has a plan to acquire more land in the back. He has talked with the property owner but Mr. Buck did not have any documentation regarding this. Board Member Kiehm said this Board couldn't consider this because Mr. Buck or Ms. Hobin does not own the property of interest.

Mr. Buck said each floor would have about twelve (12) units with the current configuration. There is room on the property for other apartments also.

It was the consensus of the Board Members that they would like to see more information regarding what the apartments would look like, a configuration, parking, and setbacks. Board Member Montrose knows if approved this would go to the Planning Board, but he would like to see what they are approving. Codes Officer Booth said setbacks don't apply in this zone.

Board Member Stanislaus asked if this building is being used for anything now – Ms. Hobin said no; water and electric are turned off.

Mr. Buck stated that he could either move the buildings off the property line or acquire some land. Mr. Buck mentioned that these apartments would generate much less traffic at this site.

Chairman Bogar asked how the apartment-type use was considered. Ms. Hobin said Mr. Buck has been the only interested buyer and this is what he is proposing. She does not have the funds to upgrade the property – she went through a bad divorce and now foreclosure.

Board Member Stanislaus asked who owns this building. Ms. Hobin said CyberSports which is hers and her husband's but she stated he is no longer involved in the business.

Discussion ensued regarding additional information for the Board to review, especially with neighbors involved. Chairman Bogar stated that Oneida County Planning mentioned that they also wanted additional information before they would review this, i.e., location of units, type of units, location on the site and parking.

Discussion ensued regarding setbacks. Ms. Hobin asked the Board if they had thought whether this was a good concept and would like their opinion. It was again stated to bring additional, specific information to the Board for review, information also on the flood plain. Basically, what exactly is on the site and what the buildings would look like. She also mentioned they need specific statements from Ms. Hobin on financial hardship.

Mr. Buck said he would have a layout according to the discussion tonight and will speak to the other landowner and have a purchase agreement to present to the Board in March.

Mr. Buck stated if this concept or idea is intolerable and we don't want to see it, they would like to know. Board Member Kiehm reiterated he needs to see more information.

Chairman Bogar stated that we can't lose sight of this Use Variance and also financial hardship. We need to look at what the applicant wants to do and have the information we need to address it. He has a concern with this type of concept in this area, especially with no information to review.

Mr. Buck said these are anticipated to be high-end apartments for professionals.

Motion was made to **postpone this until the March 18, 2013 meeting** by Board Member John Montrose; seconded by Board Member Fred Kiehm. All present in favor. Discussion ended at approximately 6:40 P.M.

Bonacci Architect, PLLC, applicant for **Utica College regarding property at 1480 Ney Avenue, Utica, New York (Town of New Hartford)**. The applicant is proposing a professional office at this location that is not permitted in a Medium Density Residential zone. Thus, the applicant is requesting a Use Variance for the professional office. Tax Map #317.012-3-42; Lot Size: 94' x 105'; Zoning: Medium Density Residential. Mr. Jack Reader of Utica College and Mr. Dave Bonacci of Bonacci Architects appeared before the Board.

Mr. Bonacci explained that Utica College bought this property in 2005, which they used to house personnel from time to time. The College has a small medical clinic on their campus and they would like to move it to this property. No external changes other than access by a sidewalk – this property abuts the Utica College campus. There would be 3 – 4 examining rooms, two (2) visiting doctors will be on staff and a few other staff members – also a nurse practitioner. The sidewalk would extend from Utica College. This facility would be for students only. Hours would be from 8:30 AM to 4:30 or 5:00 PM depending on school hours and whether the school is in session – walk in hours would be 8:30 to 9:30 AM. There will be no overnight stays. The school does not feel this will impact the area. They will clean up the property.

Chairman Bogar asked if there was anyone present to address the application.

Councilman Paul Miscione stated that he represents this ward. He has received calls regarding this application in opposition. This house was a residence, and this is a residential street. He would like to see it kept this way. He also mentioned that the Town is in the process of updating the Comprehensive Plan and, if possible, he would like this Board to postpone acting on this application until the Comprehensive Plan is done – perhaps by the end of the year. The neighbors have put up with noise, parking, trash and other changes with the College.

Stephen Best, 1479 Ney Avenue. He has seen the changes made with the College purchasing properties and not maintaining them. He had met with the President of Utica College and nothing positive has resulted. He presented a diagram of Ney Avenue and Utica College owns property surrounding the existing homes. This is a family oriented street and since Utica College has purchased properties, the area has deteriorated. There are problems with parking, trash, etc. He feels Utica College has not been a good neighbor, as they never accomplish what they say they are going to do. Mr. Best presented pictures of homes and garages that have never been repaired that Utica College owns. He is concerned about students walking to the new facility or parking. There always seems to be problems.

Chairman Bogar asked Mr. Best if he thought this property would be a good use. Mr. Best said the upkeep of this particular property isn't the problem – but Utica College says one thing and does another. He would be less concerned if the College had been a good landlord with the properties they have now.

Janet Cole, 1483 Ney Avenue. She stated the College had included them in their plans and then didn't follow through. They don't have a good history. She feels the clinic will become much more than what they say.

Laura Salie, 1474 Ney Avenue. She referred to the items in the neighborhood that hasn't been taken care of by the College. Students have walked through her property, left trash, and created parking problems. She mentioned that her and her neighbors have lived there for many years and it is not fair that they have to put up with the College's changes.

Dave Hope, 1483 Ney Avenue. He complains to the College about the parking lot but gets no help. Buses run with fumes - it's not a pleasant experience when no assistance is provided.

Mr. Bonacci said he and Mr. Reader would like to get back to Codes Officer Booth about being on the March 18, 2013 agenda. They would like to check into some of these statements.

Motion was made by Board Member Fred Kiehm to **postpone this application until the March 18, 2013 meeting**; seconded by Board Member Karen Stanislaus. All present in favor.

Town of New Hartford
Zoning Board of Appeals
February 25, 2013
Page 5

Board Member Montrose asked if they knew why Utica College is purchasing properties – Mr. Reader is new to the college and doesn't know the answer. Mr. Reader will come back with a list of properties owned on Ney Avenue by Utica College for the Board's information.

The meeting reopened by motion of Board Member John Montrose; seconded by Board Member Fred Kiehm. All present in favor.

Laura Salie – she heard rumors that the College will eventually want to purchase properties and make a parking lot and an area for a stadium.

Mr. Bonacci said he would try to get a rendering of the College's master plan.

Motion to again table this application was made by Board Member John Montrose; seconded by Board Member Fred Kiehm. All present in favor. Discussion ended at approximately 7:15 P.M.

NOTE: Since this writing, Utica College has postponed their application until further notice (per David Bonacci/Bonacci Architects, for Utica College).

Note: all applicants have asked to be tabled/postponed.

Minutes of the January 28, 2013 meeting were approved by Board Member Fred Kiehm; seconded by Board Member Karen Stanislaus. All present in favor.

There being no further business, the meeting adjourned at 7:15 P.M.

Respectfully submitted,

Dolores Shaw
Recording Secretary

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