

DRAFT MINUTES  
ZONING BOARD OF APPEALS  
VILLAGE OF PORT DICKINSON

Appeal No. \_\_\_\_\_

Date: October 15, 2019

REGARDING APPLICATION OF: 777 Chenango, LLC  
*(Name of Applicant)*

RE: Address of Property: 777 Chenango Street  
Tax Map No: 128.60-1-12  
Zoning District: Multifamily Residential

At a meeting of the Zoning Board of Appeals on Tuesday October 15, 2019, the above referenced appeal was considered pursuant to Village Zoning Code regarding the appeal of the Applicant from a decision of the Enforcement Officer regarding:

- an area variance
- a use variance
- an interpretation of the zoning ordinance or zoning map
- an extension to a special permit
- special permit

The following ZBA Members were present: Eric Backlund-Chair, Robert Sherling, Paul Kallfelz, Joseph Griswold, and David Robertson, and they were joined by Village Counsel Nathan VanWhy.

After calling the meeting to order at 7:13pm, the Chairperson discussed the format of the hearing and the Use Variance tests. The Applicant described the application and addressed each of the tests:

1. demonstrate to the Board that the property cannot yield a reasonable return, and provide financial evidence to prove this conclusion:
  - a. the Applicant did not provide evidence. The Applicant stated that the property is mostly rented.
2. explain how the alleged hardship relating to your property is unique when you compare it to similar properties and does not apply to a substantial portion of the neighborhood:
  - a. the Applicant compared the property to the immediate neighbors of school and residential, that this property is unique.
3. explain why the character of the neighborhood will not be altered if this use variance is granted:
  - a. the Applicant stated that the property is well-kept, investments in other improvements have been made and this project would be pursued in the same manner.
4. explain how the hardship relating to the use of the property arose and why the hardship was not self-created (Purchasing property without checking to see if the existing or proposed use is legal under zoning is a self-created hardship):
  - a. the Applicant explained that the property was purchased last fall (2018) and almost immediately she sought to increase parking on the property and commenced this project, without fully understanding zoning or restrictions.

The Chairman opened the floor to public comment, with the following heard:

1. Ms. Kathleen Bailey resides at the subject property and expressed sincere desire for accessible parking closer to the apartments
2. Ms. Martha Lyons, attorney representing Mr. Arthur Grace of 4 Phelps Street and 776 Chenango Street, spoke against the project citing "all macadam and cars"
3. Mrs. Reynolds of 3 Mill Street, spoke against the project citing this past winter snow from the "new" lot was plowed out and blocked the sidewalk, and she had fire response concerns
4. Mr. Bill Bowie of 783 Chenango Street and owner of Trinity Commons spoke both for and against the project, citing flooding in basement that was new this year after changes made at 777 Chenango Street, also that additional parking provided by the project would be good to get cars off the street and away from using the parking lot of his property which creates inconvenience and is inconsiderate

The public hearing was closed at 7:34pm.

Next the ZBA discussed the public comments and members voiced individual support and/or concerns. The Chairman then entered into minutes the correspondence received from:

- Binghamton Metropolitan Transportation Study
- New York State Department of Transportation
- Broome County Planning Department review recommendation pursuant to Section 230-I and -m of the General Municipal Law

The Chairman next brought up for discussion the environmental impact of the requested appeal. The Chairperson noted that this was a Use Variance and therefore an environmental determination was required prior to taking action on the requested application.

Entered into minutes was Part 1 of the Short Environmental Assessment Form, as submitted by the Applicant.

Next, Village Counsel shared content of the Short Environmental Assessment Form Part 2 – Impact Assessment, with the ZBA. After discussion, the ZBA considered Questions 1-3 as potentially "Moderate to large impact" and the remainder were considered "No, or small impact."

Discussion followed regarding whether conditions on the project would mitigate the potential moderate to large impacts, including remarks made by the Applicant, associates of the Applicant Mr. Robert Padrozil (paving company representative) and Mr. Steven McElwain (project Engineer). Generally the ZBA wanted, if a variance was going to be granted, to see aesthetics considered in the design and construction of the project to better maintain the residential appearance of the neighborhood, along with considerations for limiting the number of spots.

It was decided that if a variance was to be granted, a condition would be applied that "parking is to not exceed 20 spaces, and be placed entirely within the rectangular area created by the existing sidewalks (with rounded corners removed) as represented on the plot plan provided by Engineer Steve McElwain and to include vegetative screening at the street end of the lot."

After discussion a motion was made by Mr. Robertson, seconded by Mr. Griswold, and on roll call vote a Negative Declaration was unanimously approved, including the required condition.

The Chairman noted that the Village Planning Board rendered its recommendation for approval of a variance prior to the ZBA meeting.

The ZBA took a brief recess for legal advice with Village Counsel and immediately returned to session.

The Chairperson then reviewed the applicable tests for a use variance. After discussion, considering the evidence, upon motion of Mr. Robertson, seconded by Mr. Sherling, it was determined by the following votes

Kallfelz	Deny
Sherling	Deny
Griswold	Deny
Robertson	Deny
Backlund	Deny

that the applicant has not demonstrated unnecessary hardship:

1. the Applicant **did not** present competent evidence that the property cannot realize a reasonable substantial return;
2. the alleged hardship **is** unique and does not apply to a substantial portion of the district or neighborhood;
3. the requested variance **will not** alter the essential character of the neighborhood; and
4. the alleged hardship **is** self-created;

and the requested variance was thereupon **denied**.

The meeting was adjourned at 8:53pm.

Submitted by Eric Backlund, ZBA Chair.