

PLANNING & DEVELOPMENT COMMITTEE

Tuesday, December 15, 2015

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

AGENDA

I. Roll Call

II. Call to Order

III. Approval of Minutes – 11/17/15

IV. Proposals

Address: 85-89 Main Street

Applicant: Adam Lowder (Contractor, Vinyl Sticks)

Proposal 1: Special Sign Permit: placement of a 17.64' x 8.45' window sign across four window panels on the north elevation of this commercial building located within the BID

Actions: 1. Review application
2. Discussion and action by the board

V. Other/ New Business/Updates: Approval of 2016 meeting dates

VI. Setting of Next Meeting: January 19, 2016

VII. Adjournment

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

November 17, 2015 6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Matthew Gray, Alfred McGinnis, Rachael Tabelski, Duane Preston, Robert Knipe (Alt.)*

Others present: Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer

I. Roll Call

Roll call of the members was conducted. Six members were present and Chairman Preston declared a quorum.

II. Call to order

Mr. Preston called the meeting to order at 6:01 pm.

III. Previous Meeting Minutes

Mr. Knipe moved to approve the minutes; the motion was seconded by Mr. McGinnis, and on roll call, was approved 4-0-2

Votes in favor: 4(Edward Flynn, Robert Knipe, Alfred McGinnis, Duane Preston)

Votes opposed: 0

Votes abstained: 2 (Matthew Gray, Rachael Tabelski)

RESULT: Approval of October 20, 2015 meeting minutes.

IV. Proposals

- A. Minor Subdivision: application to divided this parcel approximately in half creating two separate parcels, each containing one two family dwelling

Address: *180 Pearl Street*

Applicant: Susan S. Hoy (Executrix for the Estate of Adolph A. Mruczek)

- Actions:
1. Review application
 2. Discussion
 3. SEQR
 4. Action by the board

1. Review Application

Mr. Preston read the summary of the proposal, as well as the recommendation for approval from the Genesee County Planning Board. Michael Del Plato, attorney for the estate, stated that the project involves two two-family apartment houses on one parcel owned by Adolph Mruczek, who is deceased. Mr. Mruczek's will dictated that one apartment house go to each of his sons. According to Mr. Del Plato, the apartment houses are separately metered and the proposed subdivision will maximize driveway and parking areas for both houses.

2. Discussion

Mr. Flynn asked if both units were constructed at the same time and Mr. Del Plato answered yes.

Mr. Gray asked if there is sufficient room for each property to have its own driveway in case of a future boundary dispute. Mr. Del Plato said there is.

Mr. Flynn asked if there is any plan for the driveway to be paved with a formal parking area in the back. Mr. Del Plato replied that he does not know.

3. SEQR

Mr. Preston asked if the board had reviewed the SEQR application and they indicated they had.

MOTION: Mr. Flynn moved to approve a negative declaration of SEQR; the motion was seconded by Mr. Gray, and on roll call, was approved 5-0.

RESULT: Negative declaration of SEQR

4. Action by the board

MOTION: Mr. Gray moved to approve the application; the motion was seconded by Alfred McGinnis, and on roll call, was approved 5-0.

RESULT: Approval of the Minor Subdivision

- B. Applicant is requesting a Special Sign Permit to allow the text on the existing digital reader board sign to periodically change. A Special Sign Permit was approved by the PDC during its December 16, 2014 meeting. Approval was granted for a 92 sq.' free standing sign that included a digital reader board with the condition that the sign not be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.

Address: 211 West Main Street (Oliver's Candies)

Applicant: Jeremy Liles (business operator)

- Actions: 1. Review application
2. Discussion and action by the board

1. Review Application

Mr. Preston read the summary of the proposal. He noted that the Genesee County Planning Board recommended disapproval.

Mr. Liles said he believes that the rules for signs are contradictory and inconsistent. He mentioned the signs for Sport of Kings, the Fire Department, schools, Cedar Street Rentals, and the Salvation Army as examples of his point. Mr. Liles said that he is asking for the rules to allow for signs to be changed once per hour.

Mr. Liles stated that he believes digital signs are not hazardous the way cell phones are. He cited Times Square and Tokyo as examples. He indicated that the store has multiple events taking place simultaneously and he wants to be able to advertise them on the sign. He

affirmed that the sign would not be flashing or scrolling, and that only the image would change.

Discussion and Action by the Board

Ms. Tabelski asked for clarification regarding changes to the sign. Mr. Liles explained that the sign itself will not change. The image on the LED board is the only aspect of the sign he wishes to change.

Mr. McGinnis asked if Mr. Liles believes the sign, which the PDC previously approved, has made a difference in the amount of business conducted. Mr. Liles answered that business has increased and that customers say they come into the store because of advertisements they have seen on the sign.

Mr. McGinnis asked about the size of the lettering and Mr. Liles replied that the lettering is controlled digitally and he can make the letters whatever size he programs into the system.

Mr. Flynn stated that the board has not previously allowed any signs to be changed more than once per day and there is no precedent for approving a sign such as this one and for that reason opposes the project.

Mr. Preston noted that the City has no jurisdiction over the schools. Mr. Flynn observed that the Sport of Kings sign was pre-existing.

Ms. Tabelski said that Mr. Liles made a good point that changing the image once per hour is different than moving or flashing text; however, the Code is not currently written in a way that allows for the board to approve the proposal.

Mr. Liles stated that the rules should be changed. Ms. Tabelski informed Mr. Liles that the PDC is presently engaged in Comprehensive Plan updates. She said that changing the sign code to make it more business friendly is a topic for the board to discuss as part of the update process, but the board cannot approve this sign proposal at the present moment.

Mr. Preston asked if Mr. Liles has spoken to his Council person regarding this subject and he said no.

MOTION: Mr. Flynn moved to deny the application; the motion was seconded by Ms. Tabelski, and on roll call, was approved 5-0.

RESULT: Special Sign Permit denied.

- C. The applicant has filed applications for: minor subdivision, site plan review, special use permit for drive-in restaurant, area variances and special sign permits. He is proposing to subdivide this existing parcel into two separate parcels and construct an approximately 1,700 sq.' Dunkin Donuts restaurant with a drive-through window on the newly created parcel

Address: 401-409 West Main Street
Applicant: Kip Finley (agent for the owner)

Actions: 1. Overview of project
2. Public hearing
3. Discussion

4. Action by the board

1. Overview of Project

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board had taken no action on the referral due to the inability of the board to pass any motion with a majority of the whole number (5 of 9 members) on a specific recommendation.

Mr. Finley noted that the main difference between the design of the current project and the one that was previously submitted is the more residential appearance of the building rather than the prototypical design, which is intended to mimic the look of the neighbors across the street.

Mr. Finley explained that the reason the height variance is needed is because the gabled roof on the more residential design, which had been indicated at the previous PDC meeting as the preferred design, could not be achieved without increasing the height.

Mr. Finley indicated there is a schematic of cross-easements between Dunkin Donuts, Five Star Bank, and Batavia Marine. He said that the easements allow for access by all parties using the driveway along the rear of the property.

Mr. Finley referred to the variance regarding the setback of the structure on the street. The intention of the designers was to create a more urban look and also set the building closer to the street and nearly even with Batavia Marine.

Mr. Finley said that a variance for the driveway is necessary because the businesses will be sharing a driveway and it does not make sense to have the driveway 20' away from the property line.

Mr. Finley explained that the proposed decrease in the width of the driveway is intended to discourage motorists from attempting left turns into the restaurant.

According to Mr. Finley, the number of parking spaces required by BMC is excessive. He indicated the large parking area at Burger King as an example of an unnecessary amount of space.

Mr. Preston acknowledged that the need for some of the variances resulted from accommodating the recommendations of the PDC.

Mr. Flynn noted that the pylon size is double the allowed amount and asked if Mr. Finley would be willing to decrease the size to 9' x 4'. Mr. Finley appealed to the Dunkin Donuts representative who agreed to decrease the size as requested.

2. Public Hearing

MOTION: Mr. Preston moved to open the public hearing; the motion was seconded by Ms. Tabelski, and on roll call, was approved 5-0.

RESULT: Public hearing opened at 6:43 pm.

Mr. Preston read a letter by City Manager, Jason Molino, into the minutes. (See attached.)

Donald Fryling, 6 Redfield Parkway

Mr. Fryling spoke in opposition to the project:

- Traffic congestion
- Too many donut shops and drive-through restaurants in the City
- Lot too small
- Public sentiment against it

Nelson Baker, 20 Redfield Parkway

Mr. Baker spoke in favor of the project:

- Dunkin Donuts will be capturing traffic, not generating it
- It will be a tax benefit for the City

Nann Zorn, 12 River Street

Ms. Zorn spoke against the project:

- Traffic congestion
- Location
- Lot too small
- Too many variances needed

James Owen, 2 Redfield Parkway

Mr. Owen remained neutral and only asked that the board consider the matter carefully.

MOTION: Mr. McGinnis moved to close the public hearing; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: Public hearing closed at 6:57 pm.

3. Discussion

Mr. McGinnis asked how many customers eat in and how many park, make a purchase, and leave. Mr. Mikolajczyk replied that 90% park and go. He noted that there are only eight seats in the restaurant. The engineer explained that he had helped Mr. Mikolajczyk with the design of the restaurant remodel project two years ago, and that they specifically decided to eliminate some seating in order to facilitate greater efficiency in responding to customers.

Mr. McGinnis asked about the average amount of time it takes for a customer to enter the restaurant, be served, and leave. Mr. Mikolajczyk responded that it takes two minutes.

Mr. Gray wanted to know the number of the peak tickets per hour. Mr. Mikolajczyk said it is 149.

Mr. Gray asked about seating capacity. Mr. Mikolajczyk answered that there are eight seats. Mark Donahoe, construction engineer for Dunkin Donuts, explained that Mr. Mikolajczyk's Dunkin Donuts is unusual because of the small parking lot. He said that changes were made, such as reduced seating capacity, in order to accommodate the needs of this particular location.

Mr. McGinnis asked about the number of parking spaces taken by employees. Mr. Mikolajczyk responded that at times there can be nine people working; however, not all of them drive.

Mr. Knipe pointed out the many difficulties in accommodating the location and the opposition to constructing Dunkin Donuts at this site, and asked what other locations had been considered and why this site was selected. No answer was forthcoming.

Mr. Gray asked about the capacity of the queue per hour. Mr. Finley answered about 20 cars per hour. Mr. Mikolajczyk added that the amount refers to peak times.

Mr. McGinnis asked about the delivery time of the supply trucks. Mr. Mikolajczyk replied that the truck comes twice weekly at 4:00 am., and is on location for about one hour each time.

Mr. Flynn commented that the peak time is between 7:00-10:00 am., and then asked about the next peak time. Mr. Mikolajczyk said that it is from 6:00-7:00 pm.

Mr. Flynn asked what time the bank opens for business and Mr. Preston answered 9:00 am. Mr. Flynn asked about overlap in parking between Dunkin Donuts and the bank. Mr. Finley said that the attorneys are working on access agreements but not necessarily parking agreements.

Mr. McGinnis asked if Batavia Marine's opening time of 10:00 am coincided with one of Dunkin Donuts' peak times, and Mr. Mikolajczyk said no.

Mr. Finley explained that the design incorporates what is called an escape lane, where a car can get out of the queue and park.

Mr. Knipe pointed out four places where pedestrians cross in front of traffic and asked if there is a way to change the design to prevent that. Mr. Finley said that it cannot be changed. Ms. Tabelski pointed out that McDonald's in Leroy has the same scenario and it has not been an issue for them. Mr. Preston added that many fast-food restaurants have the same situation, where pedestrians must cross in front of the drive-through window to get into the restaurant.

Mr. Flynn asked about parking lot lighting. Mr. Finley responded that they generally use LED lights, shoebox style, on 12' poles with downcast lighting.

4. Actions

MOTION: Ms. Tabelski moved to make the PDC the lead agency to conduct SEQR; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: PDC lead agency to conduct SEQR

MOTION: Based on the review, Ms. Tabelski moved to make a negative declaration of SEQR; the motion was seconded by Mr. McGinnis, and on roll call, was approved 5-0.

RESULT: Negative declaration of SEQR

Minor Subdivision

MOTION: Mr. Flynn moved to approve the minor subdivision; the motion was seconded by Ms. Tabelski, and on roll call, was approved 4-1-0.

Votes in favor: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Rachael Tabelski)

Votes opposed: 1 (Matthew Gray)

Votes abstained: 0

RESULT: Approval of Minor Subdivision

Site Plan Review

MOTION: Mr. McGinnis moved to approve the site plan review; the motion was seconded by Ms. Tabelski, and on roll call, was approved 4-1-0.

Votes in favor: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Rachael Tabelski)

Votes opposed: 1 (Matthew Gray)

Votes abstained: 0

RESULT: Approval of Site Plan Review

Special Use Permit

MOTION: Ms. Tabelski moved to approve the site plan review; the motion was seconded by Mr. McGinnis, and on roll call, was approved 4-1-0.

Votes in favor: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Rachael Tabelski)

Votes opposed: 1 (Matthew Gray)

Votes abstained: 0

RESULT: Approval of Special Use Permit

Special Sign Permits

Mr. Gray asked if the sign on the east elevation was covered by the pylon sign. Mr. Finley answered that the pylon sign is at the east end of the property and they were trying to use the other sign to attract westbound motorists. Mr. Gray pointed out that the pylon sign has two sides.

Mr. Flynn asked if Mr. Finley would agree to one sign. Mr. Finley said that the sign on the front is the most important one and they would agree to one sign.

MOTION: Mr. Flynn moved to approve the Special Sign Permits with the following conditions:

- One sign on the front of the building
- The pylon sign is reduced to 9' x 4'

The motion was seconded by Mr. Gray, and on roll call, was approved 5-0.

RESULT: Approval of Special Sign Permits with conditions

Variance Referral to the ZBA

MOTION: Ms. Tabelski moved to recommend approval of the variance to the ZBA; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: Recommendation of approval of variance to the ZBA

V. Setting of Next Meeting: December 15, 2015

VI. Adjournment

Mr. Preston moved to adjourn at the meeting at 7:23 pm. Ms. Tabelski seconded. All voted in favor.

Meg Chilano
Bureau of Inspection Clerk



City of Batavia

To: City of Batavia Planning and Development Committee

From: Jason Molino, City Manager *JM*

Date: November 3, 2015

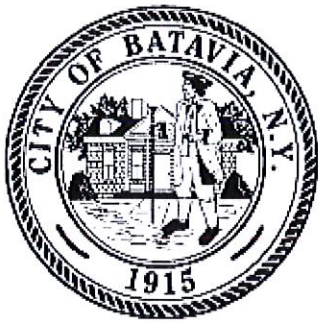
Subject: Batavia Municipal Code: Chapter 162-12

Pursuant to BMC 162-12, the City Manager shall review any proposed preliminary plat with respect to land subdivisions and transmit any findings to the Planning Board for their review.

I have received the preliminary site plan drawings for Dunkin Donuts at 401-409 West Main Street, Batavia. Below please find my comments and findings regarding the proposed preliminary plat. It should be noted that this project was previously reviewed and subsequently changed to incorporate some design features recommended by the Planning and Development Committee. A new site plan has been provide and the applicant is requesting this new submittal be reviewed.

1. The traffic study completed by the applicant on December 14, 2014 was submitted to the New York State Department of Transportation for review and comment. The DOT reviewed the proposed plans and study and reported no outstanding issues, aside from reconfiguring the queue on to Route 5 to provide greater onsite storage capacity. The current submission has addressed those concerns.
2. Access easements with both the east and west side property owners have been identified by the applicant. It is recommended that all easements be executed as a condition of a building permit being issued.
3. While there are requests for front yard clear space/set back, parking, driveway widths and building height variances all provide added value to the project by enhancing the curb side ascetic appeal, walkability for patrons and pedestrians and providing greater queue capacity.

Please feel free to contact me should you need any additional information



City of Batavia
Department of Public Works
Bureau of Inspection

One Batavia City Center, Batavia, New York 14020

(585)-345-6345

(585)-345-1385 (fax)

To: Genesee County Planning
Planning and Development Committee

From: Doug Randall, Code Enforcement Officer

Date: 11/23/15

Re: 85-89 Main St.
Tax Parcel No. 84.049-1-46

Zoning Use District: C-3

The applicant, Adam Lowder (Contractor, Vinyl Sticks), has applied for a Special Sign Permit to place a 6' x 8.45' window sign across four window panels on the north elevation of this commercial building located within the Business Improvement District.

Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (1).

Review and Approval Procedures:

County Planning Board- Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of a state parkway, thoroughway, expressway, road or highway.

City Planning and Development Committee- Pursuant to section 190-14 D (2) (b), the Planning and Development Committee shall review and approve applications for sign permits on properties located within the Business Improvement District. Also; Per 190-43 R the PDC shall approve or deny Special Sign Permits.

BMC 190-43 F and Exhibit A

A maximum 25% window sign coverage is permitted in the Central Commercial District.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, NY 14020-9404
Phone: (585) 344-2580 Ext. 5467

DEPARTMENT USE ONLY:

GCDP Referral # _____



*** GENESEE COUNTY ***
PLANNING BOARD REFERRAL

Required According to:

GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N

(Please answer ALL questions as fully as possible)

1. REFERRING BOARD(S) INFORMATIONBoard(s) Planning and Development CommitteeAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6347 Ext. _____**2. APPLICANT INFORMATION**Name Adam Lowder (contractor, Vinyl Sticks)Address 23 Ganson Ave.City, State, Zip Batavia, NY 14020Phone (585) 409 - 5543 Ext. _____ Email _____MUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia**3. TYPE OF REFERRAL:** (Check all applicable items)

- ☐ Area Variance
☐ Use Variance
☐ Special Use Permit
☐ Site Plan Review

- ☐ Zoning Map Change
☐ Zoning Text Amendments
☐ Comprehensive Plan/Update
☒ Other: Special Sign Pmt

Subdivision Proposal

- ☐ Preliminary
☐ Final

4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:A. Full Address 85-89 Main St.B. Nearest intersecting road Jackson St.C. Tax Map Parcel Number 84.049-1-46

D. Total area of the property _____ Area of property to be disturbed _____

E. Present zoning district(s) C-3 (BID)**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ NO ☐ YES If yes, give date and action taken _____

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

BMC 190-14 D(2)(b) and 190-43 RC. Please describe the nature of this request Approval to place 17.64' x 8.45' window sign across four window panels on the north elevation of this building.**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral

- ☒ Local application
☐ Site plan
☐ Subdivision plot plans
☐ SEQR forms

- ☐ Zoning text/map amendments
☐ Location map or tax maps
☐ Elevation drawings
☐ Agricultural data statement

- ☐ New or updated comprehensive plan
☒ Photos
☒ Other: Cover letter

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to planning@co.genesee.ny.us**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas Randall Title Code Enf. Officer Phone (585) 345 - 6327 Ext. _____Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020 Email drandall@batavianewyork.com



SIGN PERMIT APPLICATION

CITY OF BATAVIA
10 West Main Street, Batavia, NY, 14020
Phone: (716) 343-8180 • Fax (716) 343-9221

Permit No: _____
Date: _____
Zone: C-3
Special Sign: Yes
84,049-1-46

APPLICANT:

Name Adam Lowder/Vinyl Sticks E-mail Address alowder@vinylsticks.com
23 Cansen Ave Street Address 585-409-5543 Phone N/A Fax
City, State, Zip Code Batavia, NY 14020

OWNER:

Name Ken Mistler E-mail Address gymowner@icloud.com
85 Main St. Street Address 585-344-3700 Phone N/A Fax
City, State, Zip Code Batavia, NY 14020

ADDRESS OF SIGN: 85 Main St Batavia, NY 14020 (North side of building)

SIGN AREA: Length 53" Width 101.5" Area 37.4 sq.ft.
17.64' 8.45' 149.05'

TYPE OF SIGN: One way window film. See out from inside building

1. All sign applications must have an illustration of the sign with its dimensions and copy.
2. Freestanding signs must have a Site Plan to show the sign's location on the property
3. All other signs must include an elevation plan to show the sign's placement on the building

<input type="checkbox"/> Freestanding:	Set Back _____	Height _____	Area _____
<input type="checkbox"/> Wall	Wall Length _____	Wall Height _____	
<input type="checkbox"/> Projecting			
<input type="checkbox"/> Marquee			
<input type="checkbox"/> Awning/Canopy	Length _____	Height _____	Area _____
<input checked="" type="checkbox"/> Window	Window Length <u>53"</u>	Window Height <u>101.5"</u>	Area <u>37.4 sq.ft.</u>
<input type="checkbox"/> Portable	<u>4.41'</u>	<u>8.45'</u>	<u>149 sq.'</u>
	<u>17.64'</u>		

LIGHTING: ☐ Internal ☐ External

EXISTING SIGNS (Please list all existing signs with dimensions):

N/A

Applicant's Signature: [Signature]

Issuing Officer: _____

Planning Board Chairperson: _____

Date: 11/9/15

Date: _____

Date: _____

FEES: ☐ \$25 Sign Permit ☒ \$50 Special Sign Permit ☐ \$10 Portable Sign

149 sq.'
37.25 sq.'
111.75 sq.' over.
100% Coverage
25% Permit Fee (149 sq.)
75% over.





2016
Meeting Dates for
Planning & Development Committee
and
Zoning Board of Appeals

Deadline for applications is the last Thursday of the month

Planning & Development Committee

January 19	6:00 PM
February 16	6:00 PM
March 15	6:00 PM
April 19	6:00 PM
May 17	6:00 PM
June 28	6:00 PM
July 19	6:00 PM
August 16	6:00 PM
September 20	6:00 PM
October 18	6:00 PM
November 15	6:00 PM
December 13	6:00 PM

Zoning Board of Appeals

January 28	6:00 PM
February 25	6:00 PM
March 24	6:00 PM
April 28	6:00 PM
May 26	6:00 PM
June 30	6:00 PM
July 28	6:00 PM
August 25	6:00 PM
September 22	6:00 PM
October 27	6:00 PM
November 17	6:00 PM
December 15	6:00 PM