

# PLANNING & DEVELOPMENT COMMITTEE

## *MINUTES*

**May 19, 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*

Others present: *Meg Chilano – Recording Secretary, Jason Molino – City Manager, Doug Randall – Code Enforcement Officer, George Van Nest – City Attorney*

### **I. Roll Call**

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

### **II. Call to order**

Mr. Preston called the meeting to order at 6:02 pm.

### **III. Previous Meeting Minutes**

Mr. Gray moved to approve the minutes; the motion was seconded by Ms. Tabelski, and on roll call, was approved 4-0-1.

Votes in favor: 4 (Matthew Gray, Alfred McGinnis, Rachael Tabelski, Duane Preston)

Votes opposed: 0

Votes abstained: 1 (Edward Flynn)

**Result: Approval of April 21, 2015 meeting minutes.**

### **IV. Proposals**

- A. Placement of a 3' x 15' unlit wall sign on the west elevation of this commercial building located within the BID

Address: *37 Center Street*

Applicant: *Brian Kemp (business owner/occupant)*

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

#### **1. Review Application**

Mr. Preston read the summary of the proposal. Beth Kemp was available to speak about the project. She said that they are repurposing letters from old signs to create a kind of artsy

impression. According to Ms. Kemp, the letters will all be painted the same and there will be no lighting. She had brought an example with her to show the board.

## **2. Discussion and Action by the Board**

Mr. Gray asked if the photo was representative of the signs and Ms. Kemp replied that they are similar. Mr. Preston noted that the Genesee County Planning Board recommended approval.

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

**RESULT: Special Sign Permit approved.**

- B. Placement of one offsite wall sign for the church located at 8 Batavia City Centre on the northeast elevation of this commercial property located at 6 Batavia City Centre located within the BID

Address: *6 Batavia City Centre*

Applicant: Jason Norton (agent for EFFC Church)

Actions: 1. Review application  
2. Discussion and action by the board (Special Sign Permit)

### **1. Review Application**

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval.

Mr. Norton explained that being landlocked inside the mall is problematic. Since the mall is closed on Sunday, they have to man the main mall corridor door to make sure no one gets in.

## **2. Discussion and Action by the Board**

Mr. Preston asked if the sign would be above the door they are currently using and Mr. Norton answered yes. Mr. Flynn asked if there is another sign next to it for the dentist's office, and Mr. Norton clarified that the sign is farther down the hall. Mr. Preston pointed out that generally a sign is hung at the back of the business it refers to, and he expressed concern about what would happen if the landlord decides to sell the parcel where the sign will be hung.

Mr. Flynn noted that if the board approves this sign it could set a precedent for other landlocked properties within the mall. Mr. Preston added that setting a precedent could lead others to try the same thing, and result in multiple signs hanging in the hallway.

Mr. McGinnis asked how the church advertises. Mr. Norton responded that they have a couple of yard signs. He pointed out that the dentist, Dr. Steve, had submitted a letter indicating that the sign is fine with him. Mr. McGinnis stated his disapproval.

Mr. McGinnis asked if not having the sign is a deterrent. Mr. Norton replied that having two yard signs indicating that the church holds services is insufficient for their need to inform the public of their location. He said that unless someone is in the mall they would not know where the church is.

Ms. Tableski asked if there was something that could be done differently, such as a hanging directory, which would allow for landlocked parcels to have signage. Mr. Norton replied that the mall has a directory but it is hard to see. He also indicated that the church would like to have their logo remain on the sign.

Mr. Preston asked if the Mall Committee has a procedure regarding signage. Mr. Norton answered that the procedure is to go through the Planning and Development Committee. He said that the church is good neighbors with Dr. Steve so the most important factor seemed to be obtaining permission from him.

Mr. Flynn asked if the sign over the door is not working. Mr. Norton said that it is hard to see the sign from the parking area unless you are directly in front of it. He added that considering the church has only been in this location for three months, people do not seem to know where it is because they have not seen the sign.

**MOTION:** Mr. Flynn moved to deny the application as submitted.

Mr. Flynn said that a different size is needed, or a location other than the wall of the adjoining parcel. Mr. Flynn added that it would set an unwanted precedent. Mr. Norton pointed out that even if the sign was smaller, there would be nowhere to put it. Mr. Preston said the sign could only be placed inside in front of the doorway.

Mr. McGinnis said that his concern is that allowing this sign would result in a proliferation of signs. Mr. Preston noted that a similar sign for an interior store in the Valu plaza was denied last year.

Mr. McGinnis commented that he would expect the congregation to know the location of the church and Mr. Norton responded that the sign is for the benefit of guests.

Mr. Gray stated that if the door where the sign would be going was the main door and under the church's control and they were the only entity that could put a sign there, it would be another matter. However, there are more parcels on the inside than what is being shown on the outside.

Mrs. Norton questioned why Dr. Steve's permission is not sufficient since he is the owner of the hallway. Mr. Gray responded that the permission is not exclusive because the church does not have legal control by lease or ownership.

The motion was seconded by Mr. McGinnis, and on roll call, was approved 3-2.

Votes in favor: 3 (Edward Flynn, Alfred McGinnis, Duane Preston)

Votes opposed: 2 (Matthew Gray, Rachael Tabelski)

**RESULT: Special Sign Permit denied.**

- C. Placement of three 2.25 sq.' vinyl stick window signs on the north elevation of this commercial building located in the BID

Address: *59 Main Street*

Applicant: Ken Mistler (owner)

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

**1. Review Application**

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval.

Mr. Mistler stated that he wants to put three decals in the windows, 16 x 30". Mr. Flynn asked if the signs were already in place and Mr. Mistler said yes, that he did not realize he needed a permit.

**2. Discussion and Action by the Board**

Mr. Flynn asked if there were two businesses, and Mr. Mistler said no. Mr. Flynn asked if there is a wall between the two areas and Mr. Mistler answered yes. Mr. Flynn asked if the grill could be cashed out if the restaurant is closed, and Mr. Mistler clarified that both sections must be open at the same time.

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

**RESULT: Special Sign Permit approved.**

- D. Placement of a 16' x 3.66' externally lit wall sign on the west elevation of this commercial building located within the BID

Address: *13 Jackson Street*

Applicant: Anupa Hirani (owner)

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

**1. Review Application**

Mr. Preston read the summary of the proposal. According to Ms. Hirani, they are not putting up a new sign, but just taking down the one that is already there and replacing the letters.

### **Discussion and Action by the Board**

Mr. Flynn asked about the nature of the business and Ms. Hirani explained that one part of the building is used as a frozen yogurt shop and the other part will be a convenience store. Ms. Tabelski and Mr. Flynn asked about the graphics and colors. Ms. Hirani said that she designed the sign on the computer and the sign maker will try to create the design as best he can.

Mr. Gray asked if the lighting would be changed and Ms. Hirani answered no. Mr. Preston noted that the Genesee County Planning Board recommended approval.

**MOTION:** Ms. Tabelski moved to approve the sign; the motion was seconded by Mr. McGinnis, and on roll call, was approved 5-0.

**RESULT: Special Sign Permit approved.**

- E. Widen an existing 11.41' wide asphalt driveway to 23.41' by placing a 12' wide stone addition to the north side of the existing driveway

Address: *23 Seneca Avenue*

Applicant: George Mirrione (owner)

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

Mr. Mirrione had notified the board that he would not be available. It was decided to bring the application back for the next meeting.

- F. Widen an existing 10' side stone driveway by placing 12' of stone to the east side of the existing driveway

Address: *17 Maple Street*

Applicant: Timothy Corcoran (owner)

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

Mr. Corcoran was absent. It was decided to bring the application back for the next meeting.

- G. Widen an existing 15' wide asphalt driveway by placing an additional width of 4' of asphalt to the south side of the existing driveway

Address: *139 Jackson Street*

Applicant: JoAnn Fisher-Plath (owner)

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

### **1. Review Application**

Mr. Preston read the summary of the proposal. Ms. Fisher explained that when their three vehicles are parked behind one another, they hang over the sidewalk. She would like to widen the driveway so that two vehicles can park next to each other.

### **2. Discussion and Action by the Board**

Mr. Gray asked where the property line is located in relation to the driveway. Ms. Fisher responded that left side of the driveway is on the property line. She said that expanding the driveway by 4' would bring it along the side of the house. Following a question from Mr. Flynn regarding the need for the variance, Mr. Randall clarified that the total width of the driveway will be 19', which will take up more than 25% of the total yard space, therefore requiring a variance.

Mr. Flynn asked if there was any way to extend the driveway into the rear yard, and Ms. Fisher replied that there is a carport to the rear of the driveway. Mr. Flynn asked if it is permanent and Ms. Fisher said yes.

Ms. Tabelski asked if there were measurements available for the current driveway and Mr. Randall referred her to the survey attached to the application. Mr. Randall pointed out that the carport shown as 12' on the survey can be used as a reference point though the survey itself does not indicate measurement of the driveway. He related that the applicant reported the driveway to be 15.1'.

Mr. McGinnis said that taking away more lawn might diminish the value of the property. Ms. Fisher said that she plans to keep the house in the family.

**MOTION:** Ms. Tabelski moved to recommend approval of the application as submitted to the Zoning Board of Appeals. The motion was seconded by Mr. McGinnis.

Mr. Flynn said that he supports approval because the driveway is not being expanded by a large amount and will still only take up 37% of the front yard space.

Mr. Gray expressed concern because he thought it looked as though the survey did not match the reported measurement of the driveway and that increasing the width would put the driveway over the property line. Ms. Fisher said the driveway will be extended toward the front of the house. Mr. Randall explained that from the property line to the edge of the house, it measures 15.38'. With the total width of the driveway at 19' following expansion, the remainder will project past the corner of the house.

On roll call, the motion was approved 5-0.

**RESULT: Recommendation to the ZBA to approve the application.**

- H. Placement of a new driveway that exceeds the maximum permitted width as part of the construction of a one story attached garage with breezeway on the west side of an existing one story dwelling. The new driveway will exceed the maximum permitted width by 6"

Address: *6 Douglas Street*

Applicant: Ronald Jackett (owner)

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

Mr. Jackett was absent. It was decided to bring the application back for the next meeting.

- I. Amend the approved principal uses within Chapter 190 of the Batavia Municipal Code to eliminate boarding houses, rooming houses, tourist homes, and tourist camps or cabins from the R-2 Residential District [190-9 A (3)]

Applicant: The City of Batavia

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

**1. Review Application**

Mr. Preston read the summary of the proposal. City Manager Jason Molino addressed the board. He explained that approval of the change in code would mean that going forward, existent boarding houses and rooming houses, etc. would remain intact and continue in their present usage, and continue to go through the annual permit process; however, applications for new ones would be prohibited.

According to Mr. Molino, the proposal would allow for the amendment of a section of the R-2 district that will in turn have an impact on R-3, C-1, C-2, and C-3 because all of them state in their sections that a permitted principal use in R-2 is also allowed in R-3, C-1, C-2, and C-3. The amendment would prohibit new applications for boarding and rooming houses in those zones as well.

Currently, there are 10 establishments consisting of approximately 90 units that would remain in use and continue to be inspected annually and go through the permitting process each year. Two of the boarding houses are non-conforming uses. One is in an R-1 zone and the other is in an I zone. They would remain in use unless they sustain damage greater than

50% of the value of the property or are left vacant for one year, at which time the use would revert back to whatever zoning is appropriate for the applicable district.

Mr. Molino supported the change in code with several points. The change is consistent with the Comprehensive Plan that was adopted in 1997. Though this particular section of the code had not been included at the time, City Council had been engaged in down zoning in an attempt to preserve single family structures and minimize the growth of multi-unit structures.

Data contained in the Community Improvement Plan demonstrates that market sales of single family properties on streets with multi-dwelling units are lower, according to Mr. Molino. He said that there was a recommendation to minimize the effects of these situations and though it is a difficult process, offering incentives for a conversion program was even suggested. It is possible that the gap financing exemption addressing abandoned and vacant homes that City Council is recommending to the State Legislature could allow for the conversion of former multi-family units into single family structures.

Mr. Molino concluded that the change in code is being proposed because it is consistent with the Comprehensive Plan and the Community Improvement Plan. Both of these documents are used for land use as well as for decision making. There is also one small change to another section of code that concerns parking because there is some inconsistency with the parking provisions.

## **2. Discussion and Action by the Board**

Ms. Tableski asked for clarification of the change in parking and Mr. Molino stated that the section of code specifies one parking space per roomer keeping a motor vehicle, which contradicts another section of code.

Mr. Flynn asked how many new rooming house permits had been issued in the past ten years and Mr. Randall responded that there have been two rooming house permits issued in the last six years, 16 Oak Street with 7 units, and 316 East Main Street with 11 units. Mr. Flynn said that another reason for changing the code is that the demand is not high, and with 90 units city-wide, the market is probably saturated.

Mr. McGinnis wanted to know which wards are predominately occupied by rooming houses. Mr. Molino referred to the Batavia Opportunity Area map and pointed out that the majority of these properties are located in the 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> wards, on the highly distressed census track or on the border of the highly distressed census track in lower income areas.

One of the issues raised in the Comprehensive Plan is the mismatch of zoning and uses that took place prior to the rezoning. Having rooming houses in the C-1, C-2, and C-3 districts contributes to the mismatching because those are predominately business areas.



Mr. Flynn asked if the City is the only community that still has rooming houses. Mr. Molino replied in the negative and related that his query to other managers in the state regarding rooming houses revealed that codes regarding rooming/boarding houses in many other places have been recently updated.

Mr. Preston asked how a rooming house is defined. Mr. Van Nest indicated the section of code containing the definition of a rooming house and read the definition aloud.

Mr. McGinnis asked if there was a state rule for the number of bathrooms and Mr. Randall answered that there must be one bathroom for every four rooms.

Mr. Flynn asked about the classification of non-conforming use in the event that City Council approves the code change. Mr. Molino explained that following approval, all rooming/boarding houses would be considered non-conforming uses. They would remain in use unless they become vacant for over a year or sustain damage greater than 50% of the property value, at which time the zoning would revert to whatever is applicable for the district.

### **3. Public Hearing**

Mr. Preston opened the public hearing. Councilwoman Rose Mary Christian reported that City Council voted unanimously to bring the code change before the PDC. She stated that she is in favor of the code change because rooming houses and boarding houses diminish the value of neighboring properties.

There was no correspondence or calls and no others who wished to speak. Mr. Preston closed the public hearing.

**MOTION:** Mr. Flynn moved to recommend approval based on the fact that the code change is consistent with the Comprehensive Plan and the Community Improvement Plan, and that the market is saturated with rooming house units. The motion was seconded by Ms. Tabelski, and on roll call, was approved 5-0.

**Result: Recommend approval of code change to City Council.**

### **V. Other/New Business/Updates: Comprehensive Plan Update**

Mr. Molino reported that at the last meeting, City Council passed a resolution to have the PDC begin the Comprehensive Plan update process, which essentially makes the board the Steering Committee for the process.

The next step will be to create an RFQ (Request For Qualifications) and have a draft ready for the committee to read by the next meeting. There will be a work session to review and

discuss the draft after the next meeting. If consensus can be reached, the RFQ can be issued. If consensus is not reached, it may be necessary to hold another meeting at the end of June.

Mr. Molino affirmed the importance of developing the RFQ because it will help the board identify the result they expect from the process and how to match a consultant's skillset to that expectation.

According to Mr. Molino, the target date for issuing the RFG is July 1. He said that he would expect to bring submissions to the board in August, interview consultants, and hopefully make a selection and recommendation in September.

Mr. Flynn asked about the length of time for the entire process. Mr. Molino said he would anticipate for it to take approximately 18 months.

Mr. Flynn asked about zoning changes and if they could get a list of variances that have been issued in the past two years so they could get an idea of use trends.

Ms. Tabelski asked about funding. Mr. Molino answered that part of the project will be grant funded and Council budgeted some additional funding as well.

Mr. Molino told the board that he wanted to have a discussion with them about what to include in the RFQ. He said that after the development phase of the Comprehensive Plan update comes the zoning recommendation or changes, which are drafted by a consulting firm. Mr. Molino said that if they chose, the board could make provisions for that process as well in the RFQ.

#### **VI. Setting of Next Meeting: June 16, 2015**

#### **VII. Adjournment**

Mr. Preston moved to adjourn at the meeting at 7:07 pm. Mr. Flynn seconded. All voted in favor.



Meg Chilano

Bureau of Inspection Clerk