

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

August 16, 2016

6:00 pm

Council Board Room
One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Matthew Gray, Duane Preston, Marc Staley, Rachael Tabelski*

Members absent: Robert Knipe

Others present: Meg Chilano – Recording Secretary, Jason Molino – City Manager, Felipe Oltramari – Director, Genesee County Planning Board, Doug Randall – Code Enforcement Officer

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 6:08 pm.

III. Previous Meeting Minutes

MOTION: Mr. Gray moved to approve the minutes; the motion was seconded by Ms. Tabelski, and on roll call, was approved 3-0-2.

Votes in favor: 3 (Matt Gray, Rachael Tabelski, Duane Preston)

Votes opposed: 0

Votes abstained: 2 (Edward Flynn, Marc Staley)

RESULT: Approval of July 19, 2016 meeting minutes.

IV. Proposals

- A. Placement of two unlit wall signs on the north elevation of this commercial building located within the BID

Address: *230 Ellicott St.*

Applicant: Steve Fairbanks (sign contractor)

- Actions:
1. Remove application from table
 2. Review application
 3. Discussion and action by the board

1. Remove Application from the Table

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

RESULT: Application removed from table.

2. Review Application

Mr. Preston summarized the proposal. One sign is permitted; two are proposed.

Mr. Fairbanks explained that the new signs are the same as the previous signs with the exception of the color.

3. Discussion and Action by the Board

Mr. Flynn asked why two signs are needed and if they referred to separate functions. Mr. Fairbanks said that he was not sure, however, Mr. Oltramari responded that “Habitat” reflects the name while “Restore” refers to the function.

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

RESULT: Two sign permits approved.

- B. Addition of a 14’ wide x 30’ long stone driveway in the northwest portion of the front yard. This driveway will be in addition to a driveway in the southwest portion of this newly developed two family dwelling property

Address: 61 River St.

Applicant: Fred Mruczek (owner)

- Actions: 1. Review application
2. Discussion and recommendation to the ZBA

1. Review Application

Mr. Preston read the summary of the proposal. Mr. Mruczek said that he has two nice apartments and he would like each one to have its own driveway rather than putting everyone in the back together. Mr. Mruczek said that a second driveway will provide symmetry to the look of the property while giving each apartment a functional driveway.

2. Discussion and Action by the Board

Mr. Preston asked if the garages are at the ends of the apartment building and Mr. Mruczek responded that there are no garages.

Mr. Flynn asked if it is necessary for the second driveway to be 14’ and why can it not be 10’. Mr. Mruczek said that he measured and 10’ seems inadequate. Mr. Flynn noted that it is a second driveway and Mr. Mruczek pointed out that it will be a primary driveway for the resident of that particular apartment. Mr. Mruczek added that it is possible he may decide to do something with the property behind the apartment house which will require access by a large vehicle.

Mr. Flynn asked if the driveways will be stone and Mr. Mruczek answered yes. Mr. Flynn asked if stone is a typical material for River St. and Mr. Mruczek said that it is.

Mr. Preston asked if Mr. Mruczek has plans for asphalt or concrete. Mr. Mruczek said that he has not done so in the past.

Mr. Gray asked if the shorter driveway will be in the front of the house and Mr. Mruczek said that part of it will.

Mr. Flynn asked why Mr. Mruczek does not want the parking in the back. Mr. Mruczek responded that it has been his experience that apartment residents fight over a parking area which is shared.

Mr. Flynn pointed out that the back is deep enough for parking and Mr. Preston observed that there is access to the apartments from the back because there are porches in the rear.

Mr. Mruczek said that since the building is a duplex he does not think it would be fair for the person in the right-side apartment to have all of the traffic on their side. He believes that separate driveways offer more privacy.

Mr. Mruczek pointed out that he has several apartment houses on River St. and they all have two driveways. Mr. Flynn asked if those properties are larger than the one at 61 River. Mr. Mruczek said that the other properties are about 80' wide while the River St. property is about 70' wide.

Mr. Gray stated that his issue with the proposal is that he believes the board has not previously recommended approval to the ZBA of an application where the driveway has been in front of the house. Mr. Flynn agreed that he has a problem with setting a precedent.

MOTION: Mr. Gray moved to recommend denial of the application to the ZBA based on the amount of space over the limit the driveways would be, and because one of the driveways would be in front of the house; the motion was seconded by Mr. Gray, and on roll call, was approved 3-2.

Votes in favor: 3 (Edward Flynn, Matt Gray, Rachael Tabelski)

Votes opposed: 2 (Duane Preston, Marc Staley)

Votes abstained: 0

RESULT: Recommendation to the ZBA to deny application for Area Variance.

- C. Special Sign Permit: placement of a 30" x 25" window sign on the entrance door; one window mural to cover the entire window surface on the north elevation's west side; and one painted wall mural on the east elevation on the north corner of this commercial building located within the BID

Address: 206 East Main St.

Applicant: Vic Marchese (owner)

- Actions: 1. Remove application from the table
2. Review application
3. Discussion and action by the board

1. Remove Application from the Table

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

RESULT: Application removed from table.

2. Review Application

Mr. Preston summarized the proposal and asked the applicant to describe the signs.

Mr. Marchese said that one sign on the door is simply his logo. He explained that the sign on the side of the building is intended to cover graffiti. Mr. Marchese questioned what is wrong with the picture in the window.

3. Discussion and Action by the Board

Mr. Preston explained that according to the Batavia Municipal Code the picture in the window is technically a sign, which is taking up 100% of the frontage when only 25% is allowed. Mr. Marchese objected stating that there are perforations in the picture, so technically it does not take up 100% of the window.

Mr. Flynn asked Mr. Randall if he had gotten an interpretation of the picture as a sign and Mr. Randall explained that by definition the picture is a sign, but if the PDC is not satisfied with the definition in the BMC, they could submit the materials to the Zoning Board of Appeals and ask for an interpretation.

Mr. Preston noted that similar proposals have come before the board in the past and the board voted to reduce full-wall murals and full-window signs to 25%. Mr. Preston stated that he is agreeable to the door sign and the wall sign, noting that when graffiti can be covered for the improvement of the City it is a good thing. He added, however, that he does not approve of the sign covering the front window.

MOTION: Mr. Flynn moved to approve the door sign; the motion was seconded by Mr. Gray, and on roll call, was approved 5-0.

RESULT: Special Sign Permit approved.

Mr. Flynn said that he is having a hard time considering the Mona Lisa painting on the side of the building as a sign. Ms. Tabelski agreed. Mr. Gray asked Mr. Randall for clarification regarding why the picture is considered a sign. Mr. Randall read from the BMC: "A sign is a structure or device designed to convey a message to the public in written or pictorial form." Mr. Randall explained that a picture of the Mona Lisa holding a pizza is intended to convey the message that the public can get pizza here. Without the pizza, it would be just a mural of the Mona Lisa.

MOTION: Mr. Staley moved to approve the Mona Lisa sign on the side of the building; the motion was seconded by Ms. Tabelski.

Discussion: Mr. Staley said that he thinks the sign enhances downtown. Ms. Tabelski asked if the problem with this sign is because of the sign on the front window or the sign on the door. Mr. Randall said the problem is that the sign is not facing the street and the BMC addresses signs according to street frontage. One wall sign is allowed per street frontage, and this sign is an additional sign.

Mr. Flynn asked what percentage of space the sign will take up on the wall where it will be painted. According to Mr. Randall, the amount of space the sign will take up is miniscule compared to the size of the wall; however, he did not calculate the amount because there is no entitlement to a percentage of the space.

Mr. Marchese told the board the measurements of the wall and observed that the sign will take up less than 5% of the wall space. The board referred to an illustration indicating where the sign will be painted.

Vote: On roll call, motion was approved 5-0.

RESULT: **Special Sign Permit approved.**

MOTION: Mr. Gray moved to send the application for the front window sign to the ZBA for an interpretation of the signage; the motion was seconded by Ms. Tabelaiki.

Discussion: Ms. Tabelaiki said that as the PDC reconsiders the sign code, it may want to address these kinds of window signs which can be seen through. She noted that signs like this are beginning to appear in other municipalities as well.

Following discussion, it was decided that the question the board would pose to the ZBA is: **Do the perforated vinyl window coverings located on a first floor window of this commercial business, as depicted on the attached photographs, constitute a window sign as defined by Batavia Municipal Code?**

Vote: On roll call, motion was approved 5-0.

RESULT: **Request for interpretation regarding signage from the ZBA.**

- D. Operation of an existing 8 room, 8 occupant rooming house structure. The applicant is purchasing this property from the present rooming house operator, Mary Sorce

Address: 7-9 Mill St.

Applicant: Ryan Macdonald (purchaser)

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

1. Review Application

Mr. Preston summarized the proposal. Paul Lamendola was available to speak about the project. He explained that he will not live on site, but he will manage the property.

2. Discussion and Action by the Board

Mr. Flynn asked if there have been any problems with the other rooming houses owned by Mr. Macdonald. Mr. Randall reported that there have been no issues and noted that Mr. Macdonald has made improvements to the other properties he owns.

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

RESULT: **Operation of a Rooming House approved.**

- E. Placement of two exterior lit wall signs on the south elevation of this commercial building located within the BID. One of the signs will require a Special Sign Permit

Address: 60 Main St.
Applicant: Brenden Mullen (business owner)
Actions: 1. Review application
2. Discussion and action by the board

Applicant was not in attendance.

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

RESULT: Application tabled.

- F. Placement of one 2.16' x 12.16' exterior lit wall sign on the south elevation and one 2.16' x 12.16' exterior lit wall sign on the north elevation of this commercial building located within the BID

Address: 55 Main St.
Applicant: Premier Sign Systems (sign contractor)
Actions: 1. Review application
2. Discussion and action by the board

1. Review Application

Mr. Preston summarized the proposal. He reported that the Genesee County Planning Board recommended approval. Mike Hyman, Vice President and Senior Construction Manager for M & T Bank, spoke about the project. He said that the bank changed its logo and is now changing the signage in Western New York. He noted that the dimensions of the sign are smaller than the previous sign.

2. Discussion and Action by the Board

Mr. Flynn asked if the background of the sign will be white, and Mr. Hyman responded that it will. He added that the individual lettering as well as the goose-neck lighting will remain the same.

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

RESULT: Sign Permits approved.

- G. Special Sign Permits: placement of two internally lit canopy signs, one on the north elevation and one on the south elevation of this commercial building located within the BID

Address: 150 Washington Ave.
Applicant: Premier Sign Systems (sign contractor)
Actions: 1. Review application
2. Discussion and action by the board

1. Review Application

Mr. Preston summarized the proposal. The signs are for the M & T drive-through. Mr. Hyman explained that these signs are also smaller, and the green part of the signs will no longer be lit; only the M & T letters will be lit.

2. Discussion and Action by the Board

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

RESULT: Special Sign Permits approved.

- H. Placement of one exterior lit wall sign on the south elevation and one exterior lit wall sign on the east elevation of this commercial building located within the BID

Address: 20 Jefferson Sq.

Applicant: Mike Hodgins (sign contractor)

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

1. Review Application

Mr. Preston summarized the proposal. Mr. Hodgins told the board that the font on the sign is different from the previous one and a logo has been added, but the sign is still below the maximum allowed space.

2. Discussion and Action by the Board

Mr. Preston noted that the Genesee County Planning Board recommended approval.

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

RESULT: Sign Permit approved.

- I. Special Sign Permits: placement of one internally lit canopy sign on the south elevation and three window signs, one on the north elevation, one on the west/front elevation, and one on the entry door on the south elevation of this commercial building located within the R-2 residential use district

Address: 34-40 Oak St.

Applicant: Kati Mancuso (business owner)

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

1. Review Application

Mr. Preston summarized the proposal. Ms. Mancuso said that the sign over the door is replacing the sign that was previously there and is the same length; the width is smaller. She

explained that the signs in the windows are stick-on signs. She indicated that there is nothing on the canopies.

Ms. Mancuso clarified for the board that the sign over the door is not lit; there are two lights on the wall beside the sign, which she will turn on in the winter when it gets dark early.

2. Discussion and Action by the Board

MOTION: Mr. Staley moved to approve all of the signs; the motion was seconded by Ms. Tabelski, and on roll call, was approved 5-0.

RESULT: Special Sign Permits approved.

V. Other/New Business/Updates: Sign Code Revision Update

City Manager Jason Molino outlined the updates made to the sign code based on recommendations from the Steering Committee:

- Under prohibited signs the word “strobing” was added
- Monument signs will be permitted in R zones to allow for places of worship
- Internally lit signs: background may be either lighter or darker than lettering
- Time: electronic message board may be changed once per hour (enforcement mechanism is renewal process)
- Chart with illumination types by zone was added
- Non-conforming use issue: pre-existing non-conforming signs will not be able to use the functionality of the electronic sign. If it is not authorized in the zone where it is located, it will continue to remain a static sign. (The signs will still be able to be change once daily.)

When the new sign code is voted into effect, five signs will become non-conforming: Notre Dame, St. Paul’s Lutheran Church, the Baptist Church (190 Oak St.), Cedar Street Rentals, and United Memorial Medical Center.

Mr. Oltramari explained that the objective for the sign code is to encourage conformity. The intent of the revision is to make an ease and clear permit process for signs that conform to the code, and to make the path for a non-conforming sign permit more difficult. According to Mr. Oltramari, if the process is the same for conforming and non-conforming signs, there is no incentive to follow the code. Mr. Oltramari noted that there will be no more Special Sign Permits. Someone wanting a bigger sign would appear before the ZBA for an Area Variance.

The Steering Committee engaged in a discussion on window signs. Mr. Oltramari differentiated between window signs and window displays. He explained that with a customary window display of products is when a retail business has a window display and there is a placard that refers to the product being exhibited. The board suggested that an example should be given in the revised code.


Mr. Oltramari explained the reasoning for the amount of space for a window sign to be regulated for 25%. He said that transparency in a downtown is an essential factor contributing to walkability and creating a pedestrian environment that promotes retail business. He pointed out that there is a lot of data indicating how important it is for

people outside to see in, and people inside to see out. Transparency is considered safer, more human, and more comfortable.

VI. Setting of Next Meeting: September 20, 2016

VII. Adjournment

Mr. Preston moved to adjourn the meeting at 8:01 pm; the motion was seconded by Ms. Tabelski. All voted in favor.


Meg Chilano
Bureau of Inspection Clerk