

**PLANNING & DEVELOPMENT COMMITTEE**  
***MINUTES***

**August 26, 2014, 6:00 pm**  
Council Board Room  
One Batavia City Centre, Batavia NY

Members present:     *Edward Jones, Alfred McGinnis, Duane Preston, Paul Viele*

Others present:       *Councilperson Rosemary Christian, Stephen Valle, Carrie Lawrence,  
Kenneth Mistler*

**I. Roll Call**

Roll call of the members was conducted. Four members were present and Chairman Jones declared a quorum.

**II. Call to order**

Mr. Jones called the meeting to order at 6:02 p.m.

**III. Approval of minutes**

*Duane Preston* made a motion to approve the July 15, 2014 minutes. *Paul Viele* seconded. The motion carried 4-0.

**IV. Proposals**

Mr. Jones announced that two of the items on the agenda were proposed by the same person so to make the meeting proceed more efficiently, he said that he would change the order of the agenda and discuss 242 Ellicott Street first.

- A.       Apply exterior insulation finish system (EIFS) to upper 8' of north  
and east side elevations of this commercial building located in the BID

Address:     *242 Ellicott Street*

Applicant:   Stephen Valle (owner)

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

**1. Review Application**

Mr. Jones read the summary for 242 Ellicott Street. The applicant, Stephen Valle, has applied for approval to apply an exterior insulation finish system (EIFS) on the upper 8' of the north and east side elevations of this commercial building that is located within the Business Improvement District (BID). Windows may also be replaced. Because the project

is located within 500' of the right of way to a state highway, the application must be reviewed by the Genesee County Planning Board (GCPB). Mr. Jones read into the minutes the GCPB's decision to approve the project. (See attached.)

Stephen Valle was present to describe the project. Mr. Jones stated that he was unsure about the nature of the EIFS. Mr. Valle said that some people call the material stucco, and said that he got the idea from the finish that was applied to Alberty's Drugs. Mr. Valle brought paint chips but pointed out that the sample colors are not an exact match. He said that when the time comes to select colors, they will choose a white and a shade of blue-gray to match the flow of the current color of the building. Mr. Jones asked if it was an insulation material and Mr. Valle responded that it was more of a cosmetic material.

Mr. Jones asked about replacing windows. Mr. Valle answered that some were in good shape but that 4-5 windows would probably need to be replaced. Mr. Valle and the board members discussed which windows would need replacing while referring to the photos that accompanied the proposal. Mr. Valle said that they would probably have the windows be white. Mr. Jones said that whatever color flows would work as long as it did not produce a rainbow effect. Two windows are a different color and Mr. Valle explained to Mr. Jones that as the project moves along, eventually the trim on those windows would be painted white to match the others. Mr. Jones said that he would like to make the color of the windows a condition of approval for the project. Mr. Preston asked about the material of the windows and if they would all be vinyl. Mr. Valle said that two of the windows are vinyl and it is his intention to eventually have all white vinyl windows.

Mr. Jones asked when the building had been purchased. Mr. Valle replied that they bought the building last summer. Mr. Jones asked how the tenant is working out, referring to the barber shop. Mr. Valle responded that the barber shop is no longer there, but that while it was there it had worked well. He said that presently there is a salon in that location. Ms. Lawrence added that the upstairs is rented and everything is going well. She said that now they would like to make the corner look attractive. Mr. Jones asked if the front would stay the same. Mr. Valle replied that the material would only come down 8'-9'. He said that the paint that is on the building is not sticking so they tried to find a solution that would keep them from having to paint every three years.

Mr. McGinnis asked what they plan to seal the stucco with. Mr. Valle responded that the material would be treated in whatever manner the contractor recommended. He said the contractor has done this kind of work before in Batavia. Mr. McGinnis pointed out that there are a number of products for sealing stucco in areas with weather like Batavia. Mr. Jones asked about the time frame for beginning work and Mr. Valle replied that they would like to get the project underway as soon as possible.

## **2. Public Hearing**

Mr. Jones opened the public hearing at 6:12 pm. Councilperson Rosemary Christian corrected the agenda which erroneously referred to the location of the project as 242 Ellicott Avenue rather than Ellicott Street. She expressed her approval for the project. There was no one else present to speak about the proposal and Code Enforcement Officer Doug Randall stated that there were no calls or correspondence from the public.

Mr. Jones made a motion to close the public hearing at 6:14 pm. Mr. Viele seconded. All voted in favor.

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

Mr. Jones stated that he approves of the project with the stipulation that the windows eventually all look the same.

Motion by: *Edward Jones*

**"I move that the proposed exterior changes to the commercial building at 242 Ellicott Street, as presented to the City of Batavia Planning & Development Committee on August 26, 2014 be approved subject to the following conditions: the remaining windows on the north elevation and east elevation eventually be finished to match, with a white finish, with a 12 month completion time."**

Seconded by: *Duane Preston*

Votes in favor: 4 (Edward Jones, Alfred McGinnis, Duane Preston, Paul Viele)

Votes opposed: 0

Votes abstained: 0

**Result: Approval of exterior changes.**

- B. Make exterior changes to the west façade of this commercial building located in the BID

Address: *35-37 Jackson Street – commercial building*

Applicant: Kenneth Mistler (owner)

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

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

Because the property is located within 500' of a state highway, the project must be reviewed by the GCPB. Mr. Jones read the approval decision into the minutes. (See attached.) Then

he asked owner, Kenneth Mistler, about his plan for the project. The project involves removing the existing frontage of glass, wood, and stone and replacing it with insulating glass, aluminum, and metal. The materials are going to be different but the position of everything that is currently there, such as the door, will remain the same. Mr. Mistler indicated that the glass around the door will be safety glass.

## **2. Public Hearing**

Mr. Jones opened the public hearing at 6:18 pm. Councilperson Christian voiced her approval for any improvement along Main Street and its side streets. Mr. Randall stated that there were no other calls or correspondence, and no one else was present to speak. Mr. Jones moved to close the public hearing at 6:20 pm. Mr. Viele seconded. All voted in favor.

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

Mr. Jones stated that the project is straightforward and that he believes the front will look attractive with smaller plate glass.

Motion by: *Duane Preston*

**“I move that the proposed exterior changes to the commercial building at 35-37 Jackson Street, as presented to the City of Batavia Planning & Development Committee on August 26, 2014 be approved.”**

Seconded by: *Paul Viele*

Votes in favor: 4 (*Edward Jones, Duane Preston, Jeff Scott, Paul Viele*)

Votes opposed: 0

Votes abstained: 0

**Result: Approval of exterior changes.**

### **C. Make exterior changes to the exterior of this commercial building located in the BID**

Address: *59 Main Street - restaurant*

Applicant: Kenneth Mistler (owner)

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

## **1. Review of Application**

Mr. Jones explained that the applicant, Kenneth Mistler, has proposed to reconfigure the front entrance and window placement, place awnings across the front and rear facades, apply new signage to the front and rear, and to construct a metal canopy over a part of the existing

patio on the west side of the building. He reported that the project was previously presented to, and reviewed by, the PDC; however, as Mr. Mistler explained, the project has changed since that time. Based on the location of the project within 500' of a state highway, the application was referred to the GCPB. The GCPB recommended approval with the modification that the new sign be externally lit. (See attached.) Mr. Mistler said that he did not understand what the board was referring to and Mr. Viele answered that the recommendation is referring to the sign on the front which is lit internally. While examining the photos accompanying the application, the PDC and Mr. Mistler discussed the lighting of the various signs. Some of the existing signs are already externally lit. However, Mr. Mistler said that sign underneath the awning would be cast in shadow by the projection of gooseneck lights since the awning itself will not be lit. Mr. Preston pointed out that the photo showed it would be dark if the goosenecks projected out past the awning.

Mr. Jones asked if there were any other businesses with the type of awning Mr. Mistler is proposing. Mr. Randall said that the Tattoo Parlor has an awning with a sign lit from below and Mr. Viele added that Alberty's is lit that way also. Mr. Jones stated that he likes it, especially for the south side of the building facing the parking lot. Mr. Viele said that he thinks the awning and signage will dress up both front and back. Mr. Preston asked if the lights would be on a timer and Mr. Mistler said that the lights are on timers now, including the goosenecks.

Mr. Jones asked about the metal canopy and if there would be lighting or signage in the patio area, and Mr. Mistler replied that there would not. Mr. Jones asked what Mr. Mistler intended to do in the front, and he answered that the glass in the front is not insulated and he is replacing it. He said that the glass will be clear as per state regulations. Mr. Jones asked if Mr. Mistler would be doing anything on the south side. Mr. Mistler responded that the awning is the only thing going on that side. Mr. Jones commented that he thinks it looks sharp and makes the area look less like a parking lot. Mr. Randall prompted Mr. Jones to remind the board that to override the recommendation of the GCPB a super majority is needed. Mr. Jones explained to the board that it would take all four members to pass the proposal.

## **2. Public Hearing**

Mr. Jones opened the public hearing at 6:31 pm. Councilperson Christian spoke on behalf of the proposal. She said that she looked forward to seeing Main Street lit up as it once was. She said that the canopy will draw people in and offer a shady place to relax on hot days. She commented that the area was once a derelict spot where drunks sat and people threw garbage. She applauded Mr. Mistler for having his employees clean the area and make it a welcoming place.

There were no others present to speak and no correspondence from the public. Mr. Jones made a motion to close the public hearing at 6:33 pm. Mr. Viele seconded. All voted in favor.

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

Mr. Jones explained that there were several issues: approve exterior changes for property in the BID; the metal canopy; and three Special Sign permits and one Sign permit (two for back; two for awnings).

Mr. Viele commented on the favorable effect of lighted awnings, which he believes brighten an otherwise dark Main Street. Mr. Jones observed that they are trying to create an entertainment component to the business oriented downtown, which perhaps, will draw people in. Mr. Jones asked when Mr. Mistler will construct the canopy, and he said as soon as possible.

Motion by: *Duane Preston*

**"I move that the proposed exterior changes to the commercial building at 59 Main Street, as presented to the City of Batavia Planning & Development Committee on August 26, 2014 be approved."**

Seconded by: *Paul Viele*

Votes in favor: 4 (*Edward Jones, Alfred McGinnis, Duane Preston, Paul Viele*)

Votes opposed: 0

Votes abstained: 0

**Result: Approval of exterior changes.**

Motion by: *Duane Preston*

**"I make a motion to approve the Special Signs and exterior changes as proposed by the applicant and override the Genesee County Planning Board."**

Seconded by: *Paul Viele*

Votes in favor: 4 (*Edward Jones, Alfred McGinnis, Duane Preston, Paul Viele*)

Votes opposed: 0

Votes abstained: 0

**Result: Override the GCPB recommendation. Approval of Sign Permits and exterior changes to the commercial building at 59 Main Street.**

### **V. Other/New Business/Updates**

Mr. Jones explained that each board member must complete four hours of training per year. He said that there are a couple of ways to fulfill the requirement. One way is to sign up for the training which is offered in Batavia once a year. The training is a daylong Planning/Zoning seminar at the Clarion Hotel. Also, the County does some evening sessions

at the end of the year. Another possibility is the workshop taking place in September offered by the DEC.

**VI. Next meeting September 16, 2014**

**VII. Mr. Jones closed the meeting at 6:38 pm.**

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read "Meg Chilano". The signature is written in a cursive, flowing style.

**Meg Chilano**