

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

October 21, 2014, 6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

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

Members absent: *Jeffrey Scott, Paul Viele*

Others present: *Joanne Beck, Pat Burk, John Roach, Rick Wendt, Jeremy Yasses, Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer*

I. Roll Call

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

II. Call to order

Mr. Jones called the meeting to order at 6:05 pm.

III. Approval of minutes

Duane Preston made a motion to approve the September 16, 2014 minutes.

Seconded by: *Alfred McGinnis*

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

Votes opposed: 0

Votes abstained: 0

Result: Approval of September 16, 2014 minutes.

IV. Proposals

A. Make exterior changes to this commercial building located in the BID by installing new metal and vinyl siding

Address: *99 Jackson Street*

Applicant: *Vincent Adams (contractor)*

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

1. Remove Application from the Table

Mr. Jones removed the application from the table.

2. Review of Application

Mr. Jones read the summary of the proposal. (See attached.) He stated that based on the location of the project, referral to the Genesee County Planning Board (GCPB) was required. He reported that the GCPB reviewed the proposal and recommended approval. Mr. Jones turned the floor over to Rick Wendt, representative for the project, who described the proposed changes to the property. Mr. Wendt explained that they intend to remove the siding from the top and rear portions of the building, which is now white in color, and replace it with new almond colored vinyl siding. He said that presently, there is brick material along the bottom portion of the building. They intend to remove the brick and replace it with green colored metal siding. The rest of the building will remain the same. Mr. Jones clarified that the property will remain a gas station and Mr. Wendt pointed out that the new colors are part of the "Red Apple" gas station theme.

3. Public Hearing

Mr. Jones opened the public hearing at 6:10 pm. There were no calls or correspondence and no one came to speak. Mr. Jones moved to close the public hearing at 6:11 pm. Mr. Preston seconded. All voted in favor.

4. Discussion and action by the board

Mr. Jones said that his only concern is that the materials are attached properly and are weather resistant. He asked how the materials are going to be fastened to the building. Mr. Wendt replied that part is bolted and the other part is fastened with clips. He also noted that the metal siding has a 20-year guarantee against fading.

Motion by: *Edward Jones*

"I make a motion that the proposed exterior changes to the commercial building at 99 Jackson Street, as presented to the City of Batavia Planning & Development Committee on October 21, 2014 be approved without any conditions."

Seconded by: *Duane Preston*

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

Votes opposed: 0

Votes abstained: 0

Result: Application approved.

- B. Change principal use of this commercial building from a restaurant/lounge to a theater for viewing live theatrical performances

Address: 241-243 Swan Street

Applicant: Jeremy Yasses (owner)

- Actions:
1. Review of application
 2. Public hearing
 3. Discussion and recommendation to the ZBA

1. Review of Application

Mr. Jones read the summary of the proposal. (See attached.) He explained that it is the role of the Planning & Development Committee (PDC) to review the project and make a recommendation to the Zoning Board of Appeals (ZBA), and that a public hearing is not an essential part of the proceedings. However, there was a resident present who wished to speak, so Mr. Randall assured Mr. Jones that though it is not required, it would not be inappropriate to hold a public hearing.

Mr. Jones turned the floor over to Jeremy Yasses, owner of the property, and Pat Burk, who will be purchasing the property. According to Mr. Yasses, he had originally purchased the property with the intention of reviving the St. Nick's Club. He said that he was approached by Daphne and Steve with a proposal for a restaurant, which considering their experience in the business, Mr. Yasses believed to be a good idea. However, the restaurant failed. Mr. Yasses related that he was excited by Mr. Burk's proposal to use the building for a theater. He thinks that the theater could be a focal point for the community. Mr. Yasses said that there are few options left for the building. While it is possible to envision it as office space, he noted that most doctors seem to be located near the mall or the hospital. He concluded that the theater is a good fit for the building.

Mr. Jones stated that his main concern is that the building is located in the flood zone. If the proposed renovations would exceed more than 50% of the value of the property, then Mr. Burk would have to enter into the National Flood Insurance Program. Furnaces and other utilities would not be permitted in the basement. Mr. Burk reported that an elevation study has been done. He said that the current boiler had been placed one foot above the BFE (Base Flood Elevation). Mr. Jones asked if the proposed renovations would exceed \$35,000 and Mr. Burk replied that he would expect the cost to be above 50% of the value of the property. Mr. Jones said that he would not want Mr. Burk to get involved in a project without realizing there could be ramifications from being located in the flood zone. Mr. Burk responded that he is aware of the flood zone situation and is prepared for possible expenses as a result.

Mr. Jones pointed out that when Mr. Burk appears before the ZBA, he will need architectural plans. Mr. Jones asked if the electrical would need to be upgraded. Mr. Burk answered that Ed Smart, the architect, designed what they currently have and is not sure about what else will be needed at this point. Mr. Jones noted that the seating capacity, at 150, is fine because in 1986 the Fire Marshall put the capacity at 170 and they are under that limit. Mr. Jones said that while the PDC is not responsible for sprinklers and emergency lighting among other things, he wanted Mr. Burk to be aware of what is involved. Mr. Burk responded that he has already been through the process when the Batavia Players moved into their current location, which was a condemned facility.

Mr. Jones brought up the subject of the impact on the neighborhood. Mr. Burk stated that the Batavia Players has 180 members, some of whom live in the immediate area. According to Mr. Burk, the neighbors he has spoken with have been very positive and eagerly anticipate the opening of the theater. However, Mr. Burk explained that the group operates with volunteers and donated supplies, and that the move will take a year, a time frame similar to the one when they moved into their current location. He said that they will move some storage, costumes, and tools they will need to work on the new building. He expects the theater to open in January 2016.

Mr. Preston asked if there is wheelchair accessibility to the stage area. Mr. Burk replied that the current setup is not ADA compliant but that he and the architect are going through the plans to include the necessary changes to make the facility 100% compliant. Mr. McGinnis asked about the handicap entrance and Mr. Burk indicated on the sketch where it will be located.

2. Public Hearing

Mr. Jones opened the public hearing at 6:25 pm. John Roach, 116 Grandview Terrace, said that he thinks the theater is a great idea. He said that many people have indicated they would like to attend the theater now but that the parking and lighting at the current location is a deterrent. Mr. Roach believes that a lot of people will go to the new location and that the business will be a success.

Mr. Burk reported that the group did 11 shows last season and will do 11 shows this season as well. He stated that there will be 13 shows in the 2015 season, and that is the number they are also planning for the 2016 season. At any given time, he said that there are three shows in production and the shows are well attended. He said that groups come from outside the City as well as inside, and that the theater is no longer considered community theater, but is ranked as regional theater which is a step up. Mr. Burk said that based on the quality of their work, the group has earned special licenses and ratings within the theater community. He noted that they have achieved 92% seat occupancy. He said that their plan is to make the theater a positive experience for the neighborhood.

Mr. Preston asked about the hours of the shows, and Mr. Burk replied that they rarely last beyond 11:00 pm. Matinees start at 2:00 pm and shows begin at 7:30 pm. He said that they have their own concessions and alcohol is prohibited. Mr. Preston pointed out that the environment is family friendly. He asked if there would be bench seating and Mr. Burk answered that there will be seats rather than benches. Mr. Jones move to close the public hearing at 6:31 pm. Mr. Preston seconded. All voted in favor.

3. Discussion and Recommendation to the ZBA

Mr. Jones asked about outdoor performances and Mr. Burk said that he did not have plans for them but some of what the group does will be determined by the parameters of the permit. Mr. Randall clarified that the zoning variance is appropriate for the property, not just the

building. Mr. Jones speculated that the ZBA would need architectural plans showing sprinklers, emergency lighting, and handicap accessibility. Mr. Jones indicated that he was not sure if the ZBA could act without the plans but Mr. Randall explained that they could. He said that for the use variance they could act on it and make a recommendation for approval through code enforcement.

Mr. Jones asked if it would be necessary to install lighting in the parking lot and Mr. Burk answered that the parking lot is already lighted. Mr. Jones also asked about signage. Mr. Burk explained that he has begun to flesh out a three stage plan for the exterior. According to Mr. Burk, handicap accessibility and a new front door is number one. Number two is changing the color of the building. Signage and decoration of the building would be third. He said that the other matter requiring immediate attention is the removal of the current handicap ramp, which does not meet ADA specifications.

Motion by: *Edward Jones*

"I move that the City of Batavia Planning and Development Committee recommend that the City of Batavia Zoning Board of Appeals approve the proposed variance to allow for a non-permitted use as a theater for viewing live theatrical performances at 241-243 Swan St., as presented on October 21, 2014, subject to the following conditions (if any):

- 1. Eventually being provided with detailed plans showing emergency lighting, sprinklers, ADA accessibility, and parking**
- 2. Review any special conditions they might want to have, such as, outdoor performances, liquor license, and show hours."**

Seconded by: *Duane Preston*

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

Votes opposed: 0

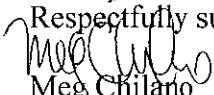
Votes abstained: 0

Result: Recommendation to ZBA for approval of change of use

V. Setting of Next Meeting: November 18, 2014

VI. Adjournment

Mr. Jones made a motion to close the meeting at 6:39 pm. Mr. Preston seconded. All voted in favor.

Respectfully submitted,

Meg Chilano