

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

January 20, 2015 6:00 pm

Council Board Room
One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Alfred McGinnis, Duane Preston, Jeffrey Scott*

Members absent:

Others present: *Phillip Dotson, Steve Fairbanks, Dean Faklaris, Mike Hodgins, Dave Tufts, Ross Walker, Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer*

I. Roll Call

Roll call of the members was conducted. Three members were present (Jeffrey Scott arrived at 6:07) and Acting Chairman Preston declared a quorum.

II. Call to order

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

III. Previous Meeting Minutes

There were only two members capable of voting on the minutes at the beginning of the meeting. Mr. Scott had not yet arrived, and as a new member, Mr. Flynn was not present at the previous meeting. The minutes were tabled.

IV. Proposals

- A. Construction of a 3,490 sq.' two story detached two family dwelling that will include four indoor parking spaces on the first floor and two dwelling units on the second floor. This detached building was previously proposed as an addition to an existing structure and was recommended for approval by the Genesee County Planning Board on 12/11/14; was approved by the City of Batavia Planning and Development Committee on 12/16/14 and the Zoning Board of Appeals on 12/18/14. The proposed building's size, interior layout and exterior appearance will match the previously approved plan with the exception of its detached construction. The new plan places this structure within the clear yard spaces along the south and west property lines. Area variances were previously granted to permit the construction, as proposed, within 5.1' of the west property line and to modify the required off street parking spaces to permit ten spaces for medical office parking with six spaces provided for the residential uses

Address: *438 East Main Street*

Applicant: *Dave Tufts (owner)*

- Actions:
1. Review of application
 2. Site plan review
 3. Public hearing
 4. Discussion and action by the board

1. Review of Application

Mr. Preston read the summary of the proposal. He noted that the Genesee County Planning Board recommended approval of the proposal with modifications. The required modifications consisted of gutters and other improvements necessary to divert water away from the neighboring properties. Mr. Randall reported to the board that at the January 15, 2015 meeting, the Zoning Board of Appeals (ZBA) approved the area variances for the property, which included the 5.1' setback from the south property line.

2. Site Plan Review

Mr. Tufts was available to speak about the project. He said that the changes in the setbacks were a result of discussions with National Fuel and National Grid. Mr. Randall clarified the changes from the original proposal by indicating that the setback would now be 10' rather than 5.1', and that the building would be detached rather than attached. Mr. Flynn asked if the only difference is that the building is detached or if the layout of the parking is also different. Mr. Tufts answered that the parking is arranged differently but that there are the same number of parking spaces. He added that everything is identical except that now there is space between the buildings. Mr. Flynn asked about lighting. Mr. Tufts replied that there will be no pole lighting. The lighting will consist of low level LED lighting from the residents' garage doors. Mr. Flynn asked if the drainage problem would be addressed. Mr. Tufts said that it would be attended to and pointed out that drainage is part of building codes.

3. Public Hearing

Mr. Preston opened the public hearing at 6:10 pm. There were no calls or correspondence and no one came to speak. Mr. Preston closed the public hearing at 6:11 pm.

4. Discussion and Action by the Board

Mr. Flynn said that usually landscaping goes between the parking and the sidewalk but in this case there is not enough room. He asked if Mr. Tufts intended to put stops at the end where the parking meets the sidewalk. Mr. Tufts responded that he could do it, but that he was hesitant to put parking blocks in because it makes it harder to plow snow, and that police records show that there have been no incidents involving cars or pedestrians on the sidewalk.

Motion by: Alfred McGinnis

"I make a motion to approve the site plan with the modification of parking blocks for the eight parking spaces abutting the sidewalk."

Seconded by: *Jeffrey Scott*

Votes in favor: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 0

Result: Approval of Site Plan

- B. Placement of a 6' x 12' (72 sq.') free standing sign in the northwest portion of this property. This sign will be in addition to a free standing sign already approved by the Code Enforcement Officer

Address: *264 Bank Street*

Applicant: Phillip Dotson (sign contractor)

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

1. Review of Application

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended disapproval because the sign exceeds the maximum permitted size and could negatively affect nearby residential use. According to the Planning Board, the sign could create visibility problems for cars exiting onto the street.

Phillip Dotson, sign contractor for the project, said that the sign which had been previously approved is placed on the back side of the building. The proposed sign is intended to replace the post and panel sign currently in use. Mr. Dotson said that the medical facility will be using the U[niversity] of R[ochester]'s brand sign. Mr. Faklaris, speaking on behalf of the medical facility, said that the lawn presents a large area for sign placement and that the picture showing the sign may have created a false impression about how the sign will look in reference to the street. He said that anyone looking at the picture would say that the sign is too close to the road, but the picture is not a true indication of where the sign will actually be placed. Mr. Faklaris said that they are proud to bring a world class cancer institute to Batavia and that they would like to have a sign that reflects it. He said that they would like to project a sense of confidence to patients coming to the facility and to show that the patients will be getting the same treatment here as in Rochester.

2. Public Hearing

Mr. Preston opened the public hearing. There were no calls or correspondence and no one present to speak about the project.

3. Discussion and Action by the Board

Mr. Flynn asked if they were aware when they applied that the maximum size for the sign is 15 sq.'. Mr. Faklaris answered that they were but that the lawn where the sign will be placed is large and they have plenty of space. Mr. Flynn pointed out that the facility is in a

residential area where visibility is difficult and there are school children in the area, and said that he is opposed to the sign. Mr. Flynn asked if the two signs would be combined and Mr. Faklaris replied that there would only be one sign. The proposed sign is intended to replace the current one.

Mr. Preston said that a sign that size would require a setback of at least 25-30', or that that they need to decrease the size of the sign to make it more street friendly. Mr. Flynn said that if the sign was approved it could set a precedent for the rest of the medical district and then the hospital could also have a sign that size.

Mr. Faklaris asked the board if they had a recommendation and if they had a preference for either setting the sign back farther or placing it closer to the road and making it smaller. He said that he would not want to come back in a month and have the board say at that point that it preferred the other option. Mr. Scott said that for him a setback would have to be a car length back. Mr. Randall said that from the survey it appears as though there is approximately 10-11 feet from the curb line to the property line. Mr. Faklaris said it looked as though the sign would need to be set back about 25' from the curb, as Mr. Preston had indicated.

Mr. Flynn said that the sign is grossly oversized and they would need to start over. Mr. Dotson asked if they should cut it in half and Mr. Flynn responded that they would still be two-and-a-half times oversized. Mr. Flynn pointed out that he is only one board member but Mr. Preston explained that because the application had been disapproved by the Genesee County Planning Board, it would take a super majority (all four members) for the PDC to override the Planning Board.

Mr. Randall asked if it would be possible for Mr. Faklaris and Mr. Dotson to come up with a size now that the board could agree to. Mr. Faklaris suggested that maybe something around 7' x 5' could work but they would have to be careful with the base because if the sign is too low to the ground it will not be visible when it snows. Mr. Faklaris said that he did not want to do a post and panel sign because he did not think it was suitable for a world class medical institute.

Mr. Faklaris said that they would have to consider different styles. Mr. Dotson mentioned that 7' x 5' dimension again and Mr. Flynn answered that it would have to be closer to 15 sq.'. Mr. Randall pointed out that the board had approved a monument sign for a medical office on 39 Washington Avenue and suggested that they might want to look at it. Mr. Preston asked if the board wanted to table the proposal but Mr. Flynn said that he voted for disapproval. Mr. Preston asked who voted to disapprove 264 Bank Street. Mr. Scott asked if anything would be gained as far as time with disapproval versus tabling. Mr. Randall said no.

Votes in favor of disapproval: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 0

Result: Application disapproved.

C. Placement of a 4' x 15' (60 sq.') wall sign on the northwest elevation of this commercial building

Address: 425-525 West Main Street

Applicant: Mike Hodgins (sign contractor)

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

1. Review of Application

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval. Mr. Hodgins said that the reason for the extra 8 sq.' is that the sign came with a brand new fixture from another location. Mr. Flynn asked if it is a box sign and Mr. Hodgins replied that it is. Mr. Preston said the reason why they need to approve the sign is because it is just a little above 15% limit of the wall area and the size of the sign is reasonable. Mr. Scott asked if the sign is internally lit and Mr. Hodgins answered that it is.

2. Public Hearing

Mr. Preston opened the public hearing at 6:32 pm. Mr. Randall said that he had received a phone call from the plaza owner who said that he is not opposed to the sign. Mr. Preston closed the public hearing at 6:33 pm.

3. Discussion and Action by the Board

There was no further discussion by the board.

Motion by: *Edward Flynn*

"I make a motion to approve the sign for the reason that it is not far above the required size."

Seconded by: *Jeffrey Scott*

Votes in favor: 4 (Edward Flynn, Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 0

Result: Application approved.

D. Placement of two electric light window signs in the front/north elevation of this commercial building located within the BID

Address: 224 Ellicott Street

Applicant: Ross Walker (business owner)

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

1. Review of Application

Mr. Preston read the summary of the proposal. He reported that the project was approved by the Genesee County Planning Board. Mr. Walker spoke about the project. He said that he did not realize that he needed permits for the two signs he already has in the window and that he would apply for a permit to take care of them. Mr. Randall clarified that the proposal only covers the two neon signs and not the banner signs already in the window. He said that the Code Enforcement Officer has told Mr. Walker that he must remove the banner signs from the window. Mr. Randall said that if Mr. Walker wants to place the banner signs in the window, he will have to file an application and appear before the PDC. Mr. Randall explained to Mr. Walker that he would have to deal with the matter another time because the PDC had to deal with the application in front of them.

Mr. Flynn said that the City's ordinance discourages neon signs, but that according to Mr. Randall, the Business Improvement District's (BID) guidelines encourages neon sign. Mr. Flynn did not have a copy of the code book with the guideline changes, so Ms. Chilano obtained one for him. Mr. Randall said that the PDC has had discussions in the past, prior to Mr. Flynn's appointment to the board, regarding the terms "encouraged", "discouraged", and "strongly discouraged" as they are used in the code book pertaining to downtown design. Mr. Randall stated that it is impossible to enforce "encouraged" and "discouraged". Mr. Flynn responded that at Mr. Randall's level it is not possible but when someone comes before a discretionary board for approval it is a different matter. Mr. Randall pointed out that in section 190-43 of the BMC it says that anything that is permitted in the code must be approved by the PDC. He said that in the past the PDC has explained to applicants the BID guidelines and programs available for façade work and asked them if they have had discussions with the BID.

Mr. Preston asked if the neon sign would be lit all of the time and Mr. Walker said that there is no lighting in the area so he will leave the signs on all night to illuminate the front. Mr. Preston thought there were three signs, but one of the signs looked as though it were two separate signs.

2. Public Hearing

Mr. Preston opened the public hearing at 6:42 pm. There was no correspondence or calls and no one came to speak about the project. Mr. Preston closed the public hearing at 6:43 pm.

3. Discussion and Action by the Board

Motion by: *Edward Flynn*

“I make a motion to approve the application because it is below the 25% space requirement and the neon does not have a negative impact on this section of Ellicott Street.”

Votes in favor: 4 (Edward Jones, Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 0

Result: Application approved

- E. Placement of a 15 sq.’ internally lit projecting sign on the west elevation of this commercial building. The proposed sign is to replace an existing sign of the same size in the same location on an existing projecting support member

Address: *107 Evans Street*

Applicant: Steve Fairbanks (Batavia Sign Co.)

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

1. Review of Application

Mr. Preston read the summary of the proposal. Mr. Fairbanks pointed out that this is an existing sign on which he is going to replace the panels. Mr. Flynn asked how long the sign has been down and Mr. Fairbanks replied that the sign was not removed; he took the panels out. Mr. Flynn asked if the previous sign had been for Delevan’s and Mr. Fairbanks answered yes. Mr. Flynn asked how long Delevan’s has been out of business. Mr. Randall and Mr. Fairbanks agreed that it had been about three months. Mr. Preston asked if the sign would be on a timer and Mr. Fairbanks said that it can be if it needs to be. Mr. Fairbanks said that he is unsure about the business hours but that he assumed the sign would be turned off at night when the business was closed.

2. Public Hearing

Mr. Preston opened the public hearing at 6:47 pm. There were no calls or correspondence and no one came to speak about the project. Mr. Preston closed the public hearing at 6:48 pm.

3. Discussion and Action by the Board

There was no further discussion.

Motion by: *Alfred McGinnis*

“I make a motion to approve the sign with the stipulation that the sign should be turned off when the business is closed.”

Seconded by: *Jeffrey Scott*

Votes in favor: 4 (Edward Jones, Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 0

Result: Application approved.

Mr. Flynn noted that he approved the sign because it was already existent on a business that had only been closed for a short time.

F. Placement of a 1.25' x 9' wall sign on the north elevation of this commercial building

Address: *216 East Main Street*

Applicant: Marc Staley (business owner/occupant)

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

1. Review of Application

The PDC saved this proposal for last because Mr. Staley was not present at the meeting. Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval. Mr. Flynn asked Mr. Randall if the sign is within the size limit and Mr. Randall replied that it is. Mr. Flynn asked about lighting and Mr. Randall responded that there is none. Mr. Preston remarked that he was surprised there was no goose neck lighting. Mr. Flynn asked about materials and Mr. McGinnis pointed out that there was no one available to speak about the project. He noted that the last time the applicant was not present to address questions, the PDC tabled the proposal. Mr. McGinnis said that it shows due diligence that an applicant follows through after submitting an application, and Mr. Scott said that the PDC prefers to have applicants available to explain the project and answer questions. Mr. McGinnis said that he believes if an applicant does not show up at the meeting, the proposal should be tabled until the applicant is present. Mr. Scott agreed.

2. Discussion and Action by the Board

Motion by: *Duane Preston*

Mr. Preston moved to table the application.

Votes in favor: 3 (Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 1 (Edward Flynn)

Votes abstained: 0

Result: Application tabled.

V. Approval of Minutes

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

Seconded by: *Jeffrey Scott*

Votes in favor: 3 (Alfred McGinnis, Duane Preston, Jeffrey Scott)

Votes opposed: 0

Votes abstained: 1 (Edward Flynn)

Result: Approval of December 16, 2014 minutes.

VI. Setting of Next Meeting: February 17, 2015

VII. Adjournment

Mr. Flynn made a motion to close the meeting at 7:05 pm. Mr. Scott seconded. All voted in favor.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Meg Chilano".

Meg Chilano