

# PLANNING AND DEVELOPMENT COMMITTEE

Tuesday, November 15, 2022

6:00 p.m.

Council Board Room

One Batavia City Centre, Batavia NY

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## AGENDA

- I. Roll Call
- II. Call to Order
- III. Approval of Minutes – 10/18/22
- IV. Proposals
  - Special Use Permit to operate a Brew Pub in the Harvester Center, which is located within the I-1 industrial use district
    - Address:** 36-90 Harvester (aka 56 Harvester, Harvester Center)
    - Applicant:** Michelle Snyder
    - Actions:**
      - 1. Review application and discussion
      - 2. Decision on Special Use Permit
- V. Approval of 2023 Meeting Dates
- VI. Setting of Next Meeting: December 20, 2022
- VII. Adjournment

# PLANNING & DEVELOPMENT COMMITTEE

## *DRAFT MINUTES*

October 18, 2022

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *David Beatty, Edward Flynn, John Ognibene, Duane Preston*

Members absent: Rebecca Cohen, Derek Geib

Others present: Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer

### **I. Roll Call**

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

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

Mr. Preston called the meeting to order at 6:00 p.m.

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

There were no corrections to the minutes. Mr. Preston assumed the motion and the minutes were approved as written by unanimous consent.

**RESULT: Approval of September 20, 2022 meeting minutes.**

### **IV. Proposals**

- A. Area Variance to install one 99 sq.' electronic message board sign on the west elevation of the existing marquee sign, and one 41 sq.' electronic message board sign on the east elevation of the existing marquee sign.

**Address:** 210-212 East Main Street.

**Applicant:** John Flannery (contractor)

- Actions:**
1. Review application and discussion
  2. Recommendation to the ZBA

#### **1. Review Application and Discussion**

Mr. Flannery explained that City Church intends an overall renovation of the sign, which includes installation of a digital reader board. The reader board will display the schedule of services. The renovation will also include a new roof structure over the sign with some LED down lighting. LED lighting will replace the tube lighting in the band that runs around the sign.

Mr. Flynn asked if the existing marquee will remain, and Mr. Flannery said it would.

Mr. Flynn asked how the gaps between the sign sections would be filled. Mr. Flannery responded that aluminum panels would be placed over the gaps.

Mr. Beatty asked about the digital capabilities of the sign and the possibility of animation, and Mr. Flannery said the sign could produce images of good quality.

Mr. Preston asked Mr. Flannery to affirm that only information regarding City Church services would be displayed, and as per the sign code, there will be no paid advertising. Mr. Flannery agreed that this is the case.

Mr. Flynn pointed out that the sign code was written in a way to exclude digital advertising on Main Street. The only reason why he would consider making an exception for this sign is that it was originally used over a theater in a place of assembly, and is therefore not a traditional business sign.

Mr. Beatty said that he would prefer more conventional signage or a solution that involves a more creative restoration of the marquee sign.

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

**MOTION:** Mr. Ognibene moved to recommend approval of the variance to the ZBA with the stipulation that the digital message board can change no more than once per 60 seconds. The motion was seconded by Mr. Flynn, and on roll call, was approved 3-1-0.

Votes in favor: 3 (Ed Flynn, John Ognibene, Duane Preston)

Votes opposed: 1 (David Beatty)

Votes abstained: 0

**RESULT: Recommendation to the ZBA for conditional approval of the variance.**

B. Obtain a rooming house permit to operate two existing rooming house structures. 134 West Main Street contains 5 rooming house units and 2 self-contained apartments. The front building of 128-130 West Main Street contains 13 rooming house units and 2 self-contained apartments units

**Address:** 134 West Main Street and 128-130 West Main Street

**Applicant:** Ryan McDonald (purchaser)

**Actions:** 1. Review application and discussion  
2. Action by the board

## **1. Review Application**

Mr. Preston read the summary of the proposal.

Mr. Randall noted that this is a case of ownership transfer.

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

**MOTION:** Mr. Flynn moved to approve the application; the motion was seconded by Mr. Beatty, and on roll call, was approved 4-0.

**RESULT: Application approved.**

C. Use Variance to gut and renovate an existing building that includes a partial floor residential use. Approximately 852 sq.’ of a 1,500 sq.’ dwelling unit is located on the first floor rear half of this building. The residential use has been vacant for more than a year and has lost its non-conforming status

**Address:** 327 Ellicott Street

**Applicant:** Bradley Trzecieski (owner)

**Actions:** 1. Review application and discussion  
2. Recommendation to the ZBA

### **1. Review Application and Discussion**

Mr. Preston read the summary of the proposal.

Mr. Trzecieski explained that he bought the property several years ago. He encountered funding problems due to floodplain compliance issues, of which he had been previously unaware.

He now has the funding lined up and would like to proceed with the project. For the project to be a reasonable investment, Mr. Trzecieski would like the property to remain as mixed use, with commercial in the lower front, and living space to the rear and upstairs.

Mr. Trzecieski noted that if the mixed-use designation is lost, the project will go from three bedrooms down to one, and will significantly reduce the investment on the property.

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

The board agreed that commercial on the lower level and living space on the upper is desirable for this area.

**MOTION:** Mr. Beatty moved to approve the project; the motion was seconded by Mr. Ognibene, and on roll call, was approved 4-0.

**RESULT: Application approved.**

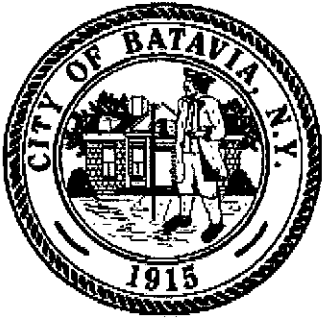
**V. Setting of Next Meeting:** November 15, 2022

### **VI. Adjournment**

Mr. Preston moved to adjourn the meeting at 6:44 p.m., and Mr. Beatty seconded the motion. All voted in favor.

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Meg Chilano  
Recording Secretary



*City of Batavia*  
*Department of Public Works*  
*Bureau of Inspections*

One Batavia City Center, Batavia, New York 14020 (585)-345-6345 (585)-345-1385 (fax)

To: Planning and Development Committee  
From: Doug Randall, Code Enforcement Officer  
Date: 11/3/22  
Re: **36-90 Harvester (aka 56 Harvester, Harvester Center)**  
Tax Parcel No.

Zoning Use District: I-1

The applicant, Michelle Snyder, has filed a Special Use Permit application to operate a Brew Pub in the Harvester Center that is located within the I-1 industrial use district.

A “Brew Pub” by definition in this code is “An eating and drinking establishment where certain beverages are prepared on the premises exclusively for on-site consumption.” The brewing of such beverages is accessory to the eating and drinking establishment.

On-site beverage production is integral to the special use.

**Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (1).**

**Review and Approval Procedures:**

**City Planning and Development Committee-** Pursuant to section 190-37 of the zoning ordinance, the Planning and Development Committee may authorize special use permits that comply with the terms and specification of the Batavia Municipal Code.

Brew Pubs must comply with BMC 190-37 K entitled “Standards applicable for all special use permits”, see attached.



# SPECIAL USE PERMIT

## CITY OF BATAVIA, NEW YORK

36-90 Harvester

LOCATION: 56 Harvester Ave Batavia, NY Unit 1-120  
OWNER Harvester Center LLC  
Address: 56 Harvester Ave (36-90 Harvester Ave)

Application Date: 10/20/2022  
Tax Parcel No.:  
Phone No 585.250.4636

No COUNTY PLANNING REVIEW

No ZONING VARIANCE REQUIRED

I-1 ZONING DISTRICT

No HISTORIC DISTRICT

C FLOOD ZONE

No HISTORIC LANDMARK

No CORNER LOT

No CITY ENGINEER REVIEW

No SITE PLAN REVIEW

No CITY COUNCIL REVIEW

No BID

x OTHER



PROJECT DESCRIPTION:

SEE ATTACHED

EXISTING USE: Vacant/previous retail store

PROPOSED USE Brew Pub

N.Y.S. BLDG. CODE OCC. CLASS: I1

N.Y.S. BLDG. CODE OCC. CLASS: I1

LOT SIZE: 8.1 Ac.

LOT AREA: tax lot #41 (84.016-1-46)

### CITY PLANNING & DEVELOPMENT REVIEW:

     APPROVAL AS PRESENTED         DISAPPROVAL         APPROVAL WITH CONDITIONS

CHAIRMAN SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

[Signature]  
Applicant Signature

10/20/2022  
Date

\_\_\_\_\_  
Issuing Officer

Permit Fee:      \$100     

Issue Date: \_\_\_\_\_

Project Description:

Windy Brew is requesting to open a brewpub with an on premise license as an eating and drinking place. We are currently a farm/microbrewery which allows us to open multiple locations and serve NYS made products. We love to offer Farm to Pint products and will continue to do so serving beer, wine, and spirits if we are approved for this location. Our bartenders will and are trained to ID and pour correct amounts of alcohol to keep our customers from being over served. We are a promoter of craft beer and NO shots of any type will be poured in this establishment. Drinks will strictly be made for on premise consumption with growlers and cans available for sale to go. We would serve food which will include pizza, wings, pretzel sticks, panini's etc. We currently use convection ovens and would be used at this location as well, with no suppression system necessary as they are vent free. In the future a portion of the back area would be used as a beer garden. This area would be roped off to contain our customers with access to leave being through the front.

Windy Brew has been a successful business for 5+years in its current location where it manufactures the beer and has a taproom with a beer garden. We would like to offer Batavia a similar experience to our Strykersville location. We have chosen Batavia for the second location as we feel the area could benefit from a craft beer experience as your city currently only has one brewery. Buffalo and the Finger Lakes have MANY breweries/wineries and are all doing well. This industry is growing across the state with 502+ breweries in operation and NYS is leading the country as we are the second largest after California with 1000+ breweries. We have been and will continue to be Chamber members, BA members, and NYSBA members. This keeps us current on the ever changing world we live in.

Michelle Lynn 10/26/2022

I would like to address each item below for the special use permit.

**K. Standards applicable for all special use permits. The Planning and Development Committee may issue a special use permit only after it has found that all the following standards and conditions have been satisfied, in addition to any other applicable standards and conditions contained elsewhere in this chapter. [Added 11-9-1998; amended 11-9-2020 by Ord. No. 2-2020]**

(1) The location and size of such use and intensity of the operations involved in or conducted therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons therewith will not be hazardous and shall be in harmony with the orderly development of the district.

\*\*\*\*The location of the proposed area is 56 Harvester Ave. Unit 1-120  
Please see the attached drawing of the layout to the street as well as off street parking.

(2) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.

\*\*\*\*There are no walls or fences as the main door is street facing from a sidewalk.  
This is a multi use building already erected.

(3) The operation of any such use shall not be more objectionable to nearby properties than would be operation of any permitted use.

\*\*\*\*Currently there are several different businesses operating in the building with one operating with a liquor license to serve canned beer.

(4) The operation of any such use shall not cause undue noise, vibration, odor, lighting glare, and unsightliness so as to detrimentally impact adjacent Properties.

\*\*\*\*Windy Brew is a respected business in its current location and takes it very serious with its close proximity of neighbors, as such if there is outdoor music it ends by 10pm. There is NO vibration, order, lighting glare, or unsightliness. We hold a high standard and will also hold that standard in Batavia.

(5) When a commercial or industrial special use abuts a residential property, the Planning and Development Committee may find it necessary to require screening of sufficient height and density (i.e., fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned.

\*\*\*\*There is no residential property near this location.

(6) Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.

\*\*\*\*N/A

(7) The proposed use shall meet the off-street parking and loading requirements of similar uses.



\*\*\*\*This area is 3000 square feet including restrooms and office/storage space; with an adjacent parking area as well street parking on the side of the business, and a few spots in the back for handicap and employees We would meet this criteria.

(8) Appropriate on-lot drainage shall be provided so as to eliminate any potential on-site water-related problems. Also, the drainage systems created shall not detrimentally impact on adjacent properties.

\*\*\*\*The drainage system is intact and has been with previous business.

(9) Traffic access to and from the use site, as well as on-lot traffic circulation, shall be designed so as to reduce traffic hazards.

\*\*\*\*N/A this is already in place.

(10) Such use shall be attractively landscaped.

\*\*\*\*N/A

(11) A special use permit shall not be issued for a use on a lot where there is an existing violation of this chapter unrelated to the use which is the subject of the requested special use permit, as determined by the Planning and Development Committee.

\*\*\*\*N/A

(12) As a condition of all special use permits, right of entry for inspection with reasonable notice shall be provided to determine compliance with the conditions of said permit.

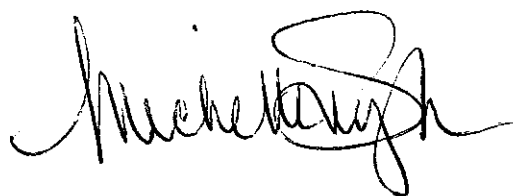
\*\*\*\*We currently have a special use permit and have yearly inspections and have maintained compliance year after year.

(13) In addition to the general standards for special use permits as set forth herein, the Planning and Development Committee may, as a condition of approval for any such use, establish any other additional standards, conditions, and requirements it deems necessary or appropriate to promote the public health, safety and welfare, and to otherwise implement the intent of this chapter.

\*\*\*\*Understandable

(14) The above standards are not intended to apply to uses whose regulation has been preempted by the state or federal government.

\*\*\*\*N/A

 Michelle  
10/26/2022

Y1 2,150/month  
 Y2 2,225/month  
 Y3 2,300/month

Utilities

Brew Pub

Bk. Kit. = 1955  
 2- kitchen = 128  
 3- Storage = 200

(45,000) 3,043<sup>50</sup>

Common  
 From = 121  
 Rear = 238

359

(419,70)

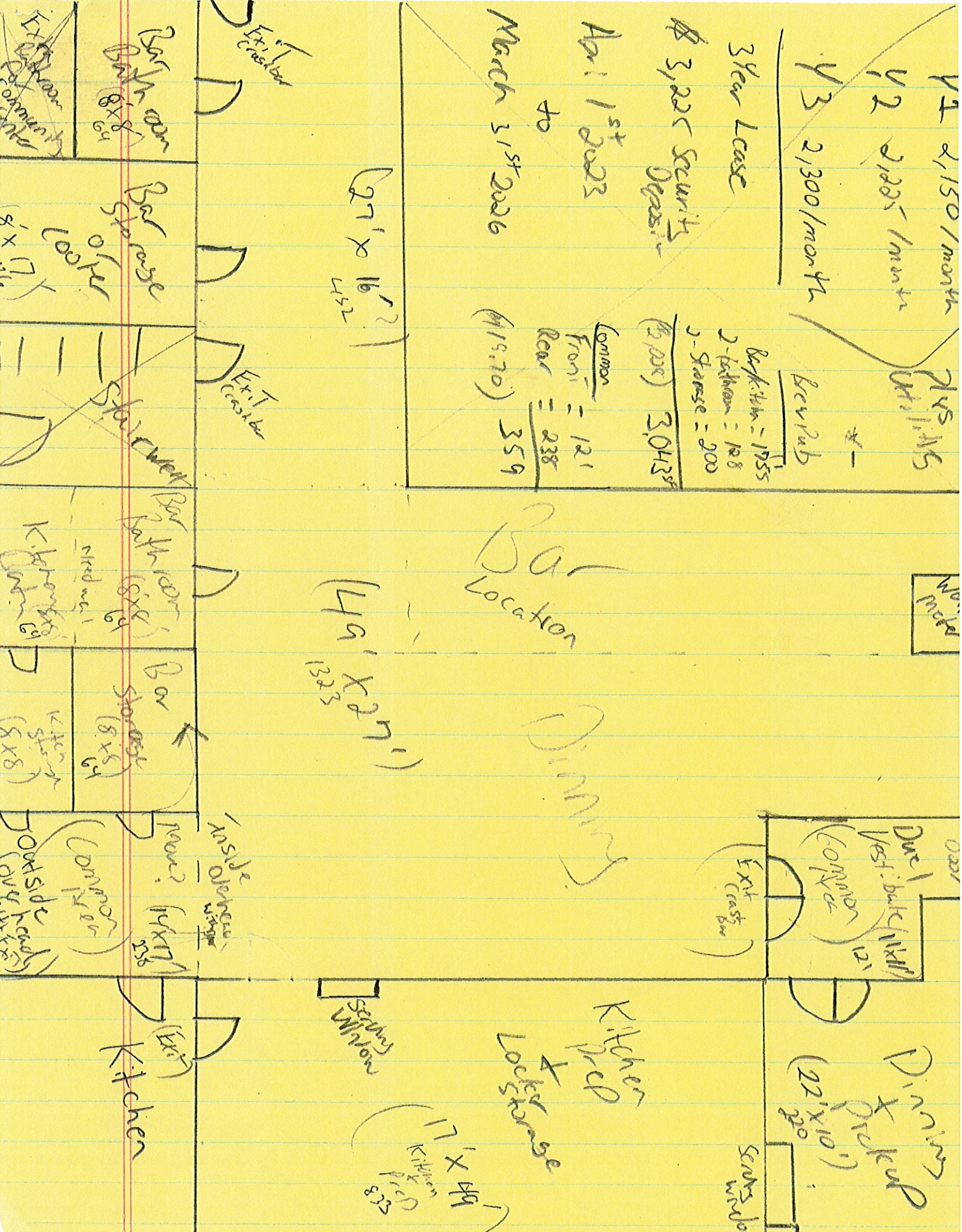
3 Year Lease  
 \$ 3,225 Security Deposit  
 April 1<sup>st</sup> 2003  
 to  
 March 31<sup>st</sup> 2006

(27' x 16' 3")  
 432

Bar Location

Dining

(49' x 27' 11")  
 1323



- (2) Accessory units will only be allowed in owner-occupied single-family residences.
- (3) Garages may not be converted to accessory dwelling units.
- (4) Entrances for the accessory unit shall not be on the front exterior to maintain the single-family appearance of the structure.
- (5) One parking space to be provided for the accessory dwelling unit.

K. Standards applicable for all special use permits. The Planning and Development Committee may issue a special use permit only after it has found that all the following standards and conditions have been satisfied, in addition to any other applicable standards and conditions contained elsewhere in this chapter.

[Added 11-9-1998; amended 11-9-2020 by Ord. No. 2-2020]

- (1) The location and size of such use and intensity of the operations involved in or conducted therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons therewith will not be hazardous and shall be in harmony with the orderly development of the district.
- (2) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.
- (3) The operation of any such use shall not be more objectionable to nearby properties than would be operation of any permitted use.
- (4) The operation of any such use shall not cause undue noise, vibration, odor, lighting glare, and unsightliness so as to detrimentally impact adjacent properties.
- (5) When a commercial or industrial special use abuts a residential property, the Planning and Development Committee may find it necessary to require screening of sufficient height and density (i.e., fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned.
- (6) Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.
- (7) The proposed use shall meet the off-street parking and loading requirements of similar uses.
- (8) Appropriate on-lot drainage shall be provided so as to eliminate any potential on-site water-related problems. Also, the drainage systems created shall not detrimentally impact on adjacent properties.
- (9) Traffic access to and from the use site, as well as on-lot traffic circulation, shall be designed so as to reduce traffic hazards.
- (10) Such use shall be attractively landscaped.
- (11) A special use permit shall not be issued for a use on a lot where there is an existing violation of this chapter unrelated to the use which is the subject of the requested special use permit, as determined by the Planning and Development Committee.
- (12) As a condition of all special use permits, right of entry for inspection with reasonable notice shall be provided to determine compliance with the conditions of said permit.
- (13) In addition to the general standards for special use permits as set forth herein, the Planning and Development Committee may, as a condition of approval for any such use, establish any other additional standards, conditions, and requirements it deems necessary or appropriate to promote the public health, safety and welfare, and to otherwise implement the intent of this chapter.

(14) The above standards are not intended to apply to uses whose regulation has been preempted by the state or federal government.

L. Adult uses as per Article VI.

[Added 12-13-1999]

M. Public storage rental units/buildings. Public storage rental units/buildings may be permitted by special use permit in the I-1 and I-2 Districts provided:

[Added 12-9-2019 by Ord. No. 2-2019]

- (1) A site plan be prepared and show the arrangement of storage buildings and outside storage areas, exterior lighting, landscaping, screening, fencing, and garbage/trash storage areas, in addition to the site plan requirements of § **190-44**.
- (2) Buildings are not to exceed one story in height and not more than 20 feet above grade.
- (3) Buildings and outside storage areas are to be a minimum of 100 feet from any residential use property.
- (4) Storage of the following will be prohibited:
  - (a) Flammable liquids, gases or solids in excess of those permitted by the International Fire Code.
  - (b) Storage of food products.
  - (c) Outside storage of junk automobiles/vehicles, auto parts, or mechanical equipment other than recreational vehicles, motor homes, travel trailers, campers, boats.
  - (d) Storage of garbage, trash or recyclable materials.
- (5) Off-street parking shall be provided for visitors at the rate of one space per 20 rental units.
- (6) No materials or products of any kind may be displayed or offered for sale on site.
- (7) Outdoor lighting shall be designed so the maximum illumination at the property line does not exceed zero footcandle on adjacent residential use properties.

## Chapter 190. Zoning

### Article IX. Supplementary Regulations

#### § 190-39. Parking requirements.

[Amended 2-22-1982; 8-14-2000]

For every building or structure erected, altered, or extended after the enactment of this chapter there shall be provided parking facilities of vehicle storage as set forth below. As defined in this chapter an off-street parking space shall measure no less than eight feet in width and 19 feet in depth and include sufficient space for aisles and maneuverability.

##### A. Off-street parking.

- (1) Purpose: The City finds that large and highly visible parking areas represent one of the most objectionable aspects of commercial development. Such parking lots may damage the historic layout and architectural fabric of historic areas, harm the natural environment and visual character of the community, interfere with pedestrian safety and accessibility and reduce the quality of life in developed areas, as measured by the City's Visual Preference Survey™. However, the City also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards and inconvenience. The City therefore seeks to balance the need for adequate parking with the need to minimize harm resulting from the provision of parking and to avoid the negative impacts of excessive parking requirements.
- (2) Residential and related uses. Minimum parking spaces required for residential and related uses:
  - (a) For single family or two-family dwelling: two spaces per dwelling unit.
  - (b) For multifamily dwellings, large-scale multifamily and high-rise apartments: 1 1/2 spaces per dwelling unit.
  - (c) Home occupation in a dwelling: one space for each 400 square feet devoted to such home occupation, plus the required spaces per dwelling unit.
  - (d) These requirements may be reduced for dwelling units with less than 1,000 square feet of floor space, senior citizen housing, mixed-use development or other appropriate circumstances if the Planning and Development Committee determines that such reductions are warranted.
- (3) Nonresidential uses. The number and layout of parking spaces for nonresidential uses shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. The provisional parking standards in Subsection **A(3)(a)** below may be varied by the Planning and Development Committee according to the criteria in subsection **A(3)(b)**.
  - (a) Provisional parking standards.

- [25] Office (not including medical or dental offices): one space per 300 square feet of professional office floor area.
  - [26] Office, medical/dental: one space per 200 square feet of building area.
  - [27] Restaurant: one space per 100 square feet of leasable area.
  - [28] Retail store: one space per 300 square feet of sales floor area plus one space per two employees.
  - [29] School, elementary: one space per employee plus two spaces per classroom.
  - [30] School, high school: five spaces for each classroom.
  - [31] Shopping center: one space per 250 square feet of gross leasable area
  - [32] Supermarket: one space per 300 square feet of sales floor area plus one space per two employees.
- (b) Criteria for applying provisional standards. In applying or modifying the provisional parking standards for any proposed use, the Planning and Development Committee shall consider:
- [1] The maximum number of persons who would be driving to the use at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand. The likelihood of people walking or bicycling to the proposed use shall also be taken into consideration.
  - [2] The size of the structure(s) and site.
  - [3] The environmental, scenic or historic sensitivity of the site (including applicable limitations on impermeable surfaces). In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the Planning and Development Committee or Code Enforcement Officer may require a reduction in the size of the structure so that the available parking will be sufficient.
  - [4] The availability of safely usable on-street parking.
  - [5] The availability of off-site, off-street parking within 400 feet that is open to the public, owned or controlled by the applicant, or available on a shared-use basis, provided that the applicant demonstrates a legal right to shared use. Availability of available satellite parking shall also be considered. [See Subsection **A(3)(d)** below.]
- (c) Set-aside for future parking. The Planning and Development Committee may require that an applicant set aside additional land to meet potential future parking demands, especially in cases where there is a phased approach to development. Such land may remain in its natural state or be attractively landscaped but may not be used in a manner that would prevent it from being used for parking in the future.
- (d) Satellite parking lots. Parking lots may be constructed as a principal use by special use permit to provide remote parking for Downtown Batavia or other intensively used locations. If used year round, such parking lots shall comply with § **190-34**, Landscaping and buffering, of this chapter. Satellite parking lots may be used as park-and-ride lots for carpoolers and bus passengers and for holding specified types of special events if so provided in the special use permit.

B. Design, layout and construction of parking areas.

(1) Location and screening.

- (a) All off-street parking shall be located behind or to the side of the principal building. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining

2023  
Meeting Dates for  
Planning and Development Committee  
Deadline for applications is the last Thursday of the month

**Planning and Development Committee**

January 17	6:00 p.m.
February 21	6:00 p.m.
March 21	6:00 p.m.
April 18	6:00 p.m.
May 16	6:00 p.m.
June 20	6:00 p.m.
July 18	6:00 p.m.
August 15	6:00 p.m.
September 19	6:00 p.m.
October 17	6:00 p.m.
November 14	6:00 p.m.
December 19	6:00 p.m.