

Troy Zoning Board of Appeals

June 5, 2018

The meeting was called to order at 6 PM.

Attendance: Catherine Conroy (chair), Jack McCann, John Normile, Gary Pavlic

Katie Spain-McLaren was absent due to a family emergency.

ZB 2018-17 Lambda Alpha Epsilon, Inc. (aka Sigma Alpha Epsilon Fraternity) seeks a Special Use Permit for expansion of nonconforming use, as well as an Area Variance for setback deficiency between principal building and accessory building, related to a proposal to add a 4500 square foot addition (and 3 parking spaces) to a fraternity house, at 12 Myrtle Avenue (ID 112.49-4-5) in an R-2 zone.

Red Griffin, attorney from Pattison, Sampson, Ginsberg, & Griffin, P.C., spoke briefly on behalf of the project.

He requested that we eliminate the necessity for the **Area Variance** for a setback deficiency between the principal building and an accessory building, since (unbeknownst to the Zoning Board), the shed which would be too close to the principal building extension can be moved.

Don Vanderhoef, Chairman of Lambda Alpha Epsilon, Inc., then spoke briefly on behalf of the project.

Vanderhoef and Griffin asserted that the project will result in a net gain of only 3 new residents (from 36 to 39).

Maury Kimmel, New York State licensed real estate broker for Bryce Real Estate, and John Mainello, Associate of Heer Realty, under questioning by Griffin, and concurred with Griffin's assertion that the proposed project will not decrease the values of neighboring properties.

Griffin noted that even with the extension (which is on the northeast side of the property), there will be a 35' buffer on the northeastern side, which contains a buffer of evergreen trees. (Note: The site plan actually indicates a 25' setback.)

A "show of hands" requested by Hillary revealed that no members of the audience (aside from the aforementioned ones who spoke on its behalf) were in favor of the project, and 7 were in opposition.

6 people (including Donna Anthony Mooney of 228 Spring Avenue) spoke in opposition to the project:

- Asked if the applicant have a permit to occupy the shed, which has been occupied for years.
- Requested a water study, because there is a water drainage problem around Spring Avenue, which may be exaggerated by this project.

- Requested a traffic study
- Feel that buffering and screening are inadequate
- Don't like the aesthetics
- Think that approving this project will set a bad precedent
- Want to preserve the historic character of the neighborhood

Gary Nelson of Maple Avenue gave a written statement in opposition to this project (attached at the end of this document) to the Zoning Board.

Ken Zalewski of Myrtle Avenue gave "A History of Myrtle Ave." (written by Kay Moser circa 1974) to the Zoning Board.

Zalewski had heard that the expanded fraternity will house 5 more students, rather than 3.

He noted that nearby 30 Myrtle Avenue has been for sale for 2 years, and is now selling for 71.6% of its original asking price (\$ 215,000 of \$ 300,000). He has heard from several potential buyers that living near fraternities is a major reason for their recalcitrance.

He also reminded that in 2008, even a simple slab of concrete placed on the front yard of 1 Myrtle Avenue (directly across the street) was denied by the Zoning Board, caused such a controversy, that it eventually went to court.

He asked the applicant to attempt to work with the Holy Cross Armenian Apostolic Church, which borders the property on the southeast side, to see if the church could provide additional parking, or even sell their building to the fraternity to provide additional rooms so that the fraternity does not need to construct an extension.

Chuck Breiner of 18 Myrtle Avenue (which borders the project on the northeast side) said that the owners of a nearby house (address not given) were so unsuccessful in selling it, that the city eventually foreclosed on the property, and then sold it for 60 % of its original price.

Colleen Breiner of 18 Myrtle Avenue (which borders the project on the northeast side) that the extension, being 2 stories, will overlook her swimming pool, and provide a view right into her bedroom.

She also had received conflicting information about how many people currently, and will in the future, reside at the property.

Griffin spoke in rebuttal:

- In his opinion, rising tax rates, rather than proximity to fraternities, is the primary reason for decreasing property values, in the neighborhood of this project, and in Troy in general.
- The project is expected to cost \$ 2 million.

Vanderhoef spoke in rebuttal:

- The carriage house on the property has had an occupancy permit since 1961.
- A Spring Avenue water study has been done.
- A Spring Avenue traffic study has been done.
- The applicant has spoken to Holy Cross Armenian Apostolic Church, who is not interested in selling its property.
- The addition is 32' W, and the front is recessed from the main building

Normile asked the applicant for an interior site plan, which Vanderhoef provided.

A motion to declare this project a **TYPE 2** SEQR action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

Hillary suggested that if the Zoning Board is to grant the applicant's request to eliminate the necessity for an Area Variance, it should include a stipulation in the Special Use Permit, stating that the shed will be moved as Griffin stated.

A motion to **APPROVE** the **SPECIAL USE PERMIT** was made by McCann (with assistance from Conroy), and seconded by Pavlic, with the following stipulation:

1. The shed will be moved so that it will not be necessary to have an Area Variance for where it's placed.

based on the following findings of fact:

- The proposed project **will not** cause substantial injury to the value of the surrounding property values ("I've heard from experts that tell me it will more than likely improve the values");
- The applicant **does** meet the landscaping and screening criteria established for Special Use Permits;
- The Special Use Permit **is not** expected to impair the public health, safety, convenience, aesthetic quality, or environmental quality of the surrounding neighborhood ("they're (only) adding 3 students", and "the addition is very tasteful").

Conroy: YES McCann: YES McLaren: ABSENT Normile: NO Pavlic: YES
Yeses 3 Nos 1

As Section 285-31.C of the Zoning Code states "Reversal of any decision of the Director or granting of a variance from any requirement of this chapter shall require the concurrence of four members of the Zoning Board of Appeals", the APPROVAL of this project was defeated (i.e. did NOT pass).

Since at least one variance for this project is defeated, **the project is DENIED in its entirety.**

ZB 2018-20 Naif Alolafi seeks a Use Variance related to a proposal to convert a deli into a smoke shop at 93-95 Congress Street (ID 101.61-1-4.2) in a B-4 zone.

Attorney Charles Essepian spoke on behalf of the project.

- The usage (first floor of a multi-use B4 building) was originally a delicatessen, which the applicant operated under the terms of a 5-year lease from the prior property owner / prior proprietor of the business, since 2013.
- The initial permit to run the delicatessen was in the name of the prior property owner / prior proprietor of the business died, whose death therefore nullified the permit. (The building now belongs to the estate of the deceased former owner, whose executor allows the applicant

to remain there.) The applicant did not know that he was therefore legally obligated to seek a new permit.

- The applicant also did not know that he was forbidden to sell certain types of pipes which he had added to his inventory, without a special permit to do so, a fact which triggered a code violation in March 2018 which forced the business to close temporarily.
- After removing the pipes, the applicant found that the permit was expired due to the permit holder's death, and the applicant could not reopen the business without applying for a similar permit in his own name.
- The applicant could not reopen it as a delicatessen because the definition of a delicatessen changed in 2015 and 2016, after the delicatessen had originally come into existence, and the business technically no longer fit the definition. (“DELICATESSEN: An establishment selling cooked or preserved foods such as meats, prepared salads, desserts, cheeses, pickles, sandwiches, soft drinks, etc., generally for consumption off the premises and with a seating area which can accommodate no fewer than 10 patrons.”)
- The applicant would have preferred to turn the building into a convenience store, but that is also not allowed because of a rule added in 2015, after the delicatessen had originally come into existence. (“§ 285-67.J: Notwithstanding any other provision of this code to the contrary, no convenience store, variety store, or retail use not specifically defined within § 285-12 may open within 500 feet of a retail store of the same use unless the use is incidental to gasoline filling station as defined in § 285-12. For the purposes of measurement, the distance shall be defined as the numerical distance from centerline of each front entry door.”)
- The applicant's current plan is to open it as a shop selling tobacco products, electronic cigarette products, snacks, and beverages.
- All smoking products to be sold in the store are legal, and are currently sold within stores which are allowed uses in Troy (delicatessens, convenience stores, grocery stores, pharmacies, etc.).
- The building will not physically change.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project an **UNLISTED SEQR** action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

A motion to **APPROVE** the **USE VARIANCE** was made by Normile, and seconded by Pavlic, based on the following findings of fact:

- The structure **cannot** yield a reasonable economic return if used only for a purpose allowed in the zone;
- The need for the variance **was not** caused by the applicant;
- The use **shall not** alter the essential character of the neighborhood, nor depreciate aesthetic or property values of the locality;
- The plight of the owner **is** due to unique circumstances (“they are caused by the fact that this is not a defined use within the zoning ordinance”).

Conroy: YES McCann: YES
Yeses 4 Nos 0

McLaren: ABSENT Normile: YES

Pavlic: YES

The APPROVAL (of the USE VARIANCE) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-22 Kathleen Kennedy seeks a Special Use Permit to change the first floor of a 3-story building, from a commercial usage to an extension of an existing residence on the 2nd and 3rd floors, at 60 Second Street (ID 101.53-13-16) in the B-4 zone.

Kathleen Kennedy spoke on behalf of the project:

- She has lived on the second and third floors of 60 Second Street for the past 5 years, and has operated Indigo Botanicals natural-products beauty spa for on the first floor, since 2013. She is closing Indigo Botanicals, and wishes to convert the first floor into an extension of her residence.
- There are other buildings in the immediate neighborhood which have residences (or parts of residences) on the first floors.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project a **TYPE 2** SEQR action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

A motion to **APPROVE** the **SPECIAL USE PERMIT** was made by Normile, and seconded by Pavlic, based on the following findings of fact:

- The proposed project **will not** cause substantial injury to the value of the surrounding property values (“it’s in keeping with the character of the neighborhood”);
- The applicant **does** meet the landscaping and screening criteria established for Special Use Permits;
- The Special Use Permit **is not** expected to impair the public health, safety, convenience, aesthetic quality, or environmental quality of the surrounding neighborhood (“a home is completely in keeping with the character of the neighborhood”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the SPECIAL USE PERMIT) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-23 IEM (International Electronic Machines Corporation) seeks a Special Use Permit related to a proposal to create an additional parking lot for nearby 850 River Street at 3251-3261 Sixth Avenue (90.62-3-2, 90.62-3-3, 90.54-3-7, 90.54-3-8) in a R-4 zone.

The applicant has merged 4 adjacent vacant parcels (formerly houses that burned down in a fire), and plans to turn them into a parking lot for nearby IEM (International Electronic Machines Corporation) at 848-850 River Street. The 4 parcels are: 3251 Sixth Avenue (90.62-3-3), 3253 Sixth Avenue (90.62-3-2), 3257 Sixth Avenue (90.54-3-8), and 3261 Sixth Avenue (90.54-3-7). This parking lot will be diagonally adjacent to the lot which it intends to serve; the two lots are connected (for both pedestrians and vehicles) at the southeast corner of 848-850 River Street and the northwest corner of 3251-3261 Sixth Avenue.

IEM also owns 844 River Street, which is directly south of 848-850 River Street and directly west of 3251-3261 Sixth Avenue. The 3 parcels constitute an internally contiguous “L” shape.

William LaPrairie, Facilities Manager at IEM, spoke on behalf of the project.

- Trees, lighting, greenspace, a rain garden, picnic tables, and a volleyball/badminton court will be included in the parking lot.
- There will be a fence along the Sixth Avenue side, with a “driveable gate”, and high-definition security cameras installed around the parking lot.
- In response to Pavlic’s question, LaPrairie said that the parking lot will have 20 spaces.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project an **UNLISTED** SEQR action, with no environmental significance, advanced by Normile, and seconded by McCann, carried by a 4-0 vote.

A motion to **APPROVE** the **SPECIAL USE PERMIT** was made by Normile, and seconded by Pavlic, based on the following findings of fact:

- The proposed project **will not** cause substantial injury to the value of the surrounding properties (“there’s going to be lighting that doesn’t affect the neighbors; it’s going to be secured after hours”);
- The applicant **does** meet the landscaping and screening criteria established for Special Use Permits (“his presentation addressed, he’s going to put in the required greenspaces”);
- The Special Use Permit **is not** expected to impair the public health, safety, convenience, aesthetic quality, or environmental quality of the surrounding neighborhood (“right now, they’re simply empty lots, put to use, and the cameras will likewise increase public safety”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The **APPROVAL** (of the **SPECIAL USE PERMIT**) **CARRIED**.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-24 D&C Troy Properties, LLC seeks a Use Variance, and Area Variances for lot area deficiency, excessive density, and parking deficiency, related to a proposal to convert the (walk-out) basement of a 2-unit residence into a 3rd residential unit, at 3 Winslow Avenue (ID 111.60-9-20), in a R-2 zone.

Paul DeMascio, part-owner and manager of D&C Troy Properties, LLC, spoke on behalf of the project.

- He's an investor-owner, not an owner-occupant. His company owns 29 houses and 64 units (geographic area not specified). He plans to rent out the building.
- When the applicant bought this property 5 years ago, it was listed as a 3-unit property, but was actually a 3-unit property. Physically, the basement is equipped to be a separate (third) unit. It has 1 bedroom, 1 bathroom, 1 kitchen, and 3 means of access.
- This project will involve only a change in legal status, no actual physical changes.
- There are only 3 other buildings on that street, all of which have their own driveways, so he does not think that parking will be a problem.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project an **UNLISTED** SEQR action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

A motion to **APPROVE** the **USE VARIANCE** was made by Normile, and seconded by McCann, based on the following findings of fact:

- The land, property, structure, or building in question **cannot** yield a reasonable economic return if used only for a purpose allowed in the zone ("because it's always been a 3-unit")
- The need for the variance **was not** caused by the applicant ("he bought it, he and his partners brought it forward to be put on the books");
- The use **shall not** alter the essential character of the neighborhood, nor depreciate aesthetic or property values of the locality ("because, once again, it's always been a 3-unit building")
- The plight of the owner **is** due to unique circumstances instead of the general conditions in the neighborhood, which may reflect the unreasonable uses of the zoning ordinance itself ("a 3-unit is not allowed in an R-2 zone")

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the USE VARIANCE) CARRIED.

A motion was made by Conroy, and seconded by Normile, to **APPROVE** the **Area Variance for a lot area deficiency**, based on the following "findings of fact":

- An undesirable change **will not** be produced in the character of the neighborhood;
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue;
- The requested area variance **is not** substantial ("based upon the fact that it was always a 3-unit building, so therefore the math probably more extreme, probably, than it is");
- The alleged difficulty **was not** self-created.

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variance for a lot area deficiency) CARRIED.

A motion was made by Conroy, and seconded by Normile, to **APPROVE** the **Area Variance for excessive density**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood (“principally because the property has always been a 3-unit building”);
- The benefit **cannot** be achieved by some method feasible for the applicant to pursue;
- The requested area variance **is** substantial. (“I cannot say that it **is not** substantial, but I have to say, with the exception of the fact that it’s always been like that”);
- The proposed variance **will not** have an adverse effect or impact on the physical conditions in the neighborhood.

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variance for excessive density) CARRIED.

A motion was made by Conroy, and seconded by McCann, to **APPROVE** the **Area Variance for a parking deficiency**, based on the following “findings of fact”:

- The requested area variance **is not** substantial (“it’s an area where everybody has their own parking driveways in the area, so therefore, this will not create any sort of problem”) (“also the third unit is occupied by one person”);
- The proposed variance **will not** have an adverse effect on the neighborhood.

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variance for a parking deficiency) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-25 Fourth Street Development, LLC seeks Area Variances for excessive density and a rear setback deficiency related to a proposal to demolish a building at 130-142 Fourth Street, and construct a 5-story mixed-use commercial/residential building with approximately 50 parking spaces, on the combined parcels of 130-142 Fourth Street (ID 101.61-7-2) and 144-146 Fourth Street (ID 101.61-7-22) in the B-4 zone.

Walter Kubow, Senior Project Engineer of The Chazen Companies (planning and engineering firm), and Jeff Mirel of Fourth Street Development, LLC, spoke on behalf of the project.

The project includes the demolition of the existing +/- 3,370 square feet one-story building, and then construction of a new +/- 92,920 square feet, 5-story mixed-use (residential and commercial) building.

The new building will have a footprint of +/- 18,630 square feet, and frontage on both Fourth Street and Congress Street. The building will consist of 2,000 – 3,000 square feet of first floor commercial space, a parking garage with approximately 30 spaces, and tenant amenity spaces. Additional onsite parking will be outdoors. All parking will be accessible from the Williams Street Alley.

The second through fifth floors will contain 80 residential units with estimated unit mix as follows: 16 studio apartments, 48 one-bedroom apartments, and 16 two-bedroom apartments.

Normile asked if the speakers knew who the commercial tenants of this project would be yet. They did not.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project a **TYPE 1** SEQR action, with no environmental significance, advanced by Normile, and seconded by McCann, carried by a 4-0 vote.

(Being that the project was declared Type 1, the City of Troy Planning Commission was designated lead agency for the environmental review. At the May 24, 2018 Planning Commission meeting, the commission voted 5-0 to issue a Negative SEQRA declaration for this project.)

A motion was made by Normile, and seconded by Pavlic, to **APPROVE** the **Area Variance for a rear setback deficiency**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood, or a detriment to nearby properties **will not** be created by the granting of the area variance (“because the other properties along the alley are similarly situated, it’s in keeping with the general conditions of the neighborhood”);
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue, other than an area variance (“because it’s still a smaller lot, they need that coverage to generate that economic return”);
- The requested area variance **is not** substantial (“a large percentage of the building will **not** be too close to the alley”);

- The proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district (“again, because it’s in keeping with the general conditions of the neighborhood”);
- The alleged difficulty **was not** self-created (“because it’s the way the area was originally laid out”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
 Yeses 4 Nos 0

The APPROVAL (of the Area Variance for a rear setback) CARRIED.

A motion was made by Normile, and seconded by Pavlic, to **APPROVE** the **Area Variance for excessive density**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood, or a detriment to nearby properties **will not** be created by the granting of the area variance (“in that the redevelopment of the property is going to bring in new people into downtown Troy neighborhood”);
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue, other than an area variance (“because in order to bring in enough tenants, they need to make the project sustainable in benefit to the neighborhood”);
- The requested area variance **is not** substantial (“because we’re talking about the center of downtown part of Troy, it’s laid out to be a dense neighborhood, it’s in keeping with the character”);
- The proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district (“because it’s going to bring in more foot traffic, more people, supporting the stores in the neighborhood”);
- The alleged difficulty **was not** self-created (“it’s a reflection of existing zoning, can’t proceed with this kind of project”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
 Yeses 4 Nos 0

The APPROVAL (of the Area Variance for excessive density) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-27 and ZB 2018-28 TRIP (Troy Rehabilitation and Improvement Program) seeks Area Variances for lot area deficiency, front setback deficiency, excessive density, and parking deficiency, related to a proposal to merge 2 lots, demolish a 2-unit residence, and build a new 2-unit residence at 441 Tenth Street (ID 90.79-5-20) and 443 Tenth Street (ID 90.79-5-19) in a R-2 zone.

Theresa Newton, Director of Rental Operations for TRIP, and Wayne Abbott, of Pi Gem Structures, spoke on behalf of the project.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project a **TYPE 2** SEQR action, with no environmental significance, advanced by Normile, and seconded by McCann, carried by a 4-0 vote.

A motion was made by Conroy, and seconded by Normile, to **APPROVE** the **Area Variances for lot area deficiency, front setback deficiency, excessive density, and parking deficiency**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood (“because the neighborhood is a mess”).
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue;
- The requested area variances **are not** substantial;
- The proposed variances **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood (“they will only improve the neighborhood”);
- The alleged difficulty **was not** self-created.

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variances for lot area deficiency, front setback deficiency, excessive density, and parking deficiency) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-29 TRIP seeks Area Variances for front setback deficiency and parking deficiency, related to a proposal to construct a new 2-unit residence on a vacant lot, at 449 Tenth Street (ID 90.79-5-16) in an R-2 zone.

Theresa Newton, Director of Rental Operations for TRIP, and Wayne Abbott, of Pi Gem Structures, spoke on behalf of the project.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project a **TYPE 2** SEQR action, with no environmental significance, advanced by Normile, and seconded by McCann, carried by a 4-0 vote.

A motion was made by Normile, and seconded by Pavlic, to **APPROVE** the **Area Variances for front setback deficiency and parking deficiency**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood (“rather a desirable change”);
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue, other than an area variance (“because this is what’s necessary to redevelop this property”);
- The requested area variances **are not** substantial (“because it’s part of a larger project to benefit the area in particular, and the city in general”);
- The proposed variances **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district (“needed to redevelop the properties”)
- The alleged difficulty **was not** self-created (“they didn’t foresee a project like this”)

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variances for front setback deficiency and parking deficiency) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-30 TRIP seeks a Special Use Permit, and Area Variances for lot area deficiency, lot width deficiency, building length deficiency, front setback deficiency, rear setback deficiency, and parking deficiency, related to a proposal to demolish a dilapidated 4-unit residence, and replace it with a new 2-unit residence, at 61-63 Ingalls Avenue (ID 90.71-2-14) in a B-5 zone.

The new 2-unit residence will have 2 stories, with one apartment on each floor. The Special Use Permit is to have a residential use below the second floor (on the first floor) in a B-5 district.

Theresa Newton, Director of Rental Operations for TRIP, and Wayne Abbott, of Pi Gem Structures, spoke on behalf of the project.

- The project is in a B-5 zone, but only half a block away from a R-4 zone, in which first floor residences are allowed without a Special Use Permit.
- A first floor unit would be more accessible to tenants with some physical disabilities.
- The project is replacing a larger building with a smaller building. All of the 7 characteristics which require variances for the new project also exist for the current usage of the property; they are just grandfathered. No completely new variances will be created by this project.
- The current building on the property is so dilapidated that it could be considered a hazard to the surrounding neighborhood.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project a **TYPE 2** SEQR action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

A motion to **APPROVE** the **SPECIAL USE PERMIT** was made by Normile, and seconded by Pavlic, based on the following findings of fact:

- The proposed project **will not** cause substantial injury to the value of the surrounding property values (“because the intent is to redevelop the property into a structure that’s going to add to the value and the utility of the neighborhood”);
- The applicant **does** meet the landscaping and screening criteria established for Special Use Permits;
- The Special Use Permit **is not** expected to impair the public health, safety, convenience, aesthetic quality, or environmental quality of the surrounding neighborhood (“because the plan is to redevelop the site into a productive, attractive property that will add value”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the SPECIAL USE PERMIT) CARRIED.

A motion was made by Conroy, and seconded by Normile, to **APPROVE** the **Area Variances for lot area deficiency, lot width deficiency, building length deficiency, front setback deficiency, rear setback deficiency, and parking deficiency**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood (“rather a desirable change will be produced”);
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue (“property is what it is, and there’s nothing they can do about it”);
- The requested area variance **is not** substantial;
- The proposed variance **will not** have an adverse effect or impact on the environmental conditions in the neighborhood (“in fact, it will have a positive effect on the neighborhood”);
- The alleged difficulty **was not** self-created (“by TRIP”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
 Yeses 4 Nos 0

The APPROVAL (of the Area Variances for lot area deficiency, lot width deficiency, building length deficiency, front setback deficiency, rear setback deficiency, and parking deficiency) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

ZB 2018-31 TRIP seeks a Use Variance, as well as Area Variances for lot area deficiency, front setback deficiency, excessive density, and parking deficiency, related to a proposal to demolish a 3-car garage, and add two more 2-unit residences to an existing 2-unit residence, at 332 Ninth Street (ID 90.79-5-43) in a R-2 zone.

This site is currently called “332 Ninth Street”, and is currently owned by the City of Troy. It consists of the formerly consolidated 332 Ninth Street, 334 Ninth Street, 336 Ninth Street, 338 Ninth Street, and 340 Ninth Street. This combined parcel contains a vacant 2-unit residence and a vacant 3 car garage.

The applicant wishes to demolish the 3-car garage, and add two more 2-unit residences, for a total of 3 two-unit residences on one parcel.

Theresa Newton made a correction to the project description: The existing building, though 2 stories, and legally classified as a 2-unit residence, has in fact been used as only a 1-unit residence, and will remain so after the applicant renovates it. Therefore, the end result of the project will be **5 units on a single property**, instead of 6 units. Nonetheless, it still needs the same Use Variance and 3 Area Variances.

Theresa Newton, Director of Rental Operations for TRIP, and Wayne Abbott, of Pi Gem Structures, spoke on behalf of the project.

- The property will contain a new 3-car garage, which was not shown on the site plan. That means that the necessary Area Variance for a parking deficiency is for 7 spaces (10 minus 3).
- Tenants of this property are also allowed to use the parking lot across the street at 341-347 Ninth Street, also owned by TRIP, when it is available.

Conroy asked why the applicant needs a Use Variance.

Newton replied that TRIP will receive \$ 1.95 million in HOME funds from New York State Homes and Community Renewal. Changing the project would not only cause cost inefficiencies, but it could also conceivably jeopardize this funding.

Nobody spoke in favor of, or in opposition to, the project.

A motion to declare this project an **UNLISTED** SEQR action, with no environmental significance, advanced by Normile, and seconded by Pavlic, carried by a 4-0 vote.

A motion was made by Normile, and seconded by Pavlic, to **APPROVE** the **USE VARIANCE** based on the following findings of fact:

- The property in question **cannot** yield a reasonable economic return if used only for a purpose allowed in the zone (“because in order to qualify for the funding to redevelop the property, the applicant needs a certain number of buildings”);
- The need for the variance **was not** caused by the applicant (“in this case, it’s trying its best to work within the city plan”);
- The use **shall not** alter the essential character of the neighborhood, nor depreciate aesthetic or property values of the locality (“because in fact, the redevelopment will improve the essential character of the neighborhood and appreciate aesthetic and property values”);
- The plight of the owner **is** due to unique circumstances (“in the zoning in this neighborhood, which prevent it from redeveloping the necessary density to, first of all, qualify for the funding, secondly, to make properties profitable”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the USE VARIANCE) CARRIED.

A motion was made by Normile, and seconded by Pavlic, to **APPROVE** the **Area Variances for lot area deficiency, front setback deficiency, excessive density, and parking deficiency**, based on the following “findings of fact”:

- An undesirable change **will not** be produced in the character of the neighborhood (“I think this variance instead will allow TRIP to improve the character of the neighborhood”);
- The benefit sought by the applicant **cannot** be achieved by some method feasible for the applicant to pursue, other than an area variance (“because they need a certain density to get the new buildings on the property”);
- The requested area variances **are not** substantial (“the buildings that they’re proposing to build will be in keeping with the character of the other houses in the neighborhood”);
- The proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district (“rather, it will have a positive impact on the conditions of the neighborhood”);
- The alleged difficulty **was not** self-created (“The applicant was trying to work to improve the city within the existing code, and at the same time, qualify for the funds that they’re going to use to make a change”).

Conroy: YES McCann: YES McLaren: ABSENT Normile: YES Pavlic: YES
Yeses 4 Nos 0

The APPROVAL (of the Area Variances for lot area deficiency, lot width deficiency, building length deficiency, front setback deficiency, rear setback deficiency, and parking deficiency) CARRIED.

Since all necessary variances for this project carried, **the project is APPROVED by the Zoning Board in its entirety.**

The meeting was adjourned at 8:17 PM.