

Zoning Board of Appeals
City of Cortland
April 11, 2011

A regular meeting of the Zoning Board of Appeals was held on Monday, April 11, 2011, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

Present: Chair Hickey, Comm. Brown, Haskell, McGinley and Wickman

Staff: Mayor Feiszli, Zoning Officer Bruce Weber, Asst. Fire Chief William Knickerbocker and Cheryl Massmann, Deputy City Clerk

Item No. 1 – 162 Tompkins St. – (ExpressMart)(SD) – Area Variance and Special Use Permit – Signage, Dumpster and Front Yard Setback.

Matt Neuman, Esq. is here to represent ExpressMart as well as Patrick Hyde and Chris Sweeney. Mr. Neuman explained that this project has been to City Planning and has received approval. He noted that some of their approval was contingent upon Engineer/Advisor Ken Teter's comments and noted that they have conceded to those comments. He stated that they also went to County Planning. He hoped that the Zoning Board would approve their Area Variance and Special Use Permit.

Comm. Wickman asked if there were any issues that had yet to be resolved. Mr. Neuman stated that with the issues raised by Ken Teter, they had basically stated that they would agree to them and he went over them with the Board.

Mr. Neuman stated that there was a question about additional traffic flow marking on the site and they have agreed to put in a small sign or directional arrow. He noted that the Planning Commission wanted a pedestrian access from Broadway and that has been added. A pedestrian crosswalk through the shrubbery from Broadway into the site with an ADA ramp has been added to the plans. He also explained that there had been much discussion regarding fuel delivery trucks clogging up the flow of traffic on the site. Mr. Hyde noted that they agreed to that and they will be regulating delivery times and if the delivery is there at a bad time, they will block off the drive-thru with cones. Mr. Hyde noted that a standard delivery time averaged about thirty-five (35) to forty (40) minutes.

Comm. Brown asked for an explanation of the planned walkway from Broadway. Mr. Neuman showed them the walkway and ramp on the drawing.

Comm. Wickman asked if ExpressMart had agreed with all of the stipulations that had been expressed by the Planning Commission. Mr. Neuman stated that their engineer had agreed to those items. He explained that with regards to the trees, ExpressMart will meet with Mike Dexter of City Landscape and Design and take

his advice. He noted that there was one (1) large tree that everyone wanted to keep.

Zoning Officer Weber asked a question regarding the loss of the buffer to the walkway in the new plan drawing. He noted that they were asked to provide access, but not necessarily within the buffer. He explained that the buffer had to meet City Code landscape requirements and the walkway can adjoin that. Mr. Hyde stated that they could move the walkway. Mr. Neuman noted that the neighbor wanted the greenspace to stay.

Chair Hickey asked Zoning Officer Weber for an explanation of the City's landscaping requirements for the buffer strip. Zoning Officer Weber explained that the City's landscaping requirements for the buffer strip was two (2) trees and/or two (2) shrubs for every ten (10) linear feet, etc. and the walk could be adjoining or within the buffer strip as long as the landscaping within the buffer strip met the landscaping requirements within the City Code. He read the requirements to those present from the City Code. Mr. Hyde agreed that they could do that. Zoning Officer Weber also stated that no landscaping plan had been submitted by ExpressMart so he didn't know if they met the buffer requirements. Mr. Neuman stated that a landscaping plan would be submitted.

Chair Hickey noted that they can have a ten (10) foot walkway within the buffer strip as long as they have the right amount of trees and shrubs to meet the City Code. She also asked if the drainage concerns had also been addressed.

Mr. Neuman stated that he had not received anything from the NYSDOT, but they are looking for the Zoning Board approval subject to DOT as well as City DPW approval regarding storm water drainage. Mr. Hyde stated that he had met with Keith VanGorder and Stan Bergernon with the plans and they preliminarily were in agreement, but noted that the plans had to go through the Syracuse Office of the DOT for the final drainage plan permit approval.

Chair Hickey reviewed the City Planning Commission's minutes and their approval of the Site Plan with their contingencies and stipulations.

Comm. Wickman asked if the issue regarding the dumpster had been approved. Mr. Neuman stated that they were still requesting a variance on that.

Chair Hickey asked what County Planning had said about the dumpster variance. Mr. Neuman stated that the County had left the placement up to the City's discretion and their only comment was that the dumpster be properly screened. Comm. Brown asked if trucks would be going back there. Mr. Hyde indicated that the trucks would just go back there and lift and dump and exit. It was indicated that there was a ten (10) foot setback requirement and theirs was only nine feet (9) three (3) inches.

Chair Hickey asked about the signage. Zoning Officer Weber indicated that only three (3) signs were allowed for the property, one (1) for each street frontage. He noted that for pole signs less than twenty (20) feet, the maximum amount of surface area shall not exceed three times the height of the sign, the setback of the existing pole sign is less than what is required, so that is a non-conforming sign which they are making more non-conforming. Mr. Hyde stated that because they are doing a new base for the pole sign, they now could meet the setback requirement.

Chris Sweeney indicated that the surface area of the pole sign would be larger than that of the existing pole sign and they are asking for a square footage of eighty-two point nine three (82.93) square feet with LED and no scrolling. It will be exactly the same sign that is there now, but they would add some cabinet signage for the other businesses that they will have inside. Comm. Brown asked if the square footage of the current sign was known. The ExpressMart representatives did not know the size of the current sign.

Chair Hickey noted the extent of the variance for the signage is the size allowed and the number of signs. She asked him to outline the signs.

Mr. Sweeney noted that sign B was the pole sign on the corner of Broadway and Tompkins, the next two (2) signs which are designated signs A which would be the ExpressMart LED signs which are forty-five (45) square feet total above the front door, another forty-five (45) square foot sign on the side towards Broadway. He noted that sign D was for Sandwich Works Restaurant on the side of the building and sign E which is the drive-in sign and the canopy sign. Mr. Sweeney noted that the canopy sign would remain the same. He explained that there will also be three (3) directional signs which the City Planning Commission recommended. He stated that the only other sign on the plans was sign J which will be where the old Jrecks sign was, out in the front point near the kerosene pump. He did state that J was the least important sign of the nine (9) signs on the site.

Comm. Brown asked them if all the signage was needed. Chair Hickey felt that there should be a reduction in the signage on the site. Mr. Neuman and the other ExpressMart representatives did indicate that sign J could be eliminated and agreed to that. Chair Hickey noted that the signage and buffer zone had to meet the City's Code and have the approval of the Landscape and Design Commission. The applicants agreed. Zoning Officer Weber would be the watchdog on this and he asked them to submit a landscaping plan for the Landscape and Design Commission to review and approve.

There was no one further to speak; therefore the public hearing was closed.

On the motion of Comm. McGinley, seconded by Comm. Brown, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE AND SPECIAL USE PERMIT – 162 TOMPKINS ST. – (EXPRESSMART)(SD) - SIGNAGE, DUMPSTER AND FRONT YARD SETBACK BE PLACED ON THE TABLE FOR DELIBERATION.

The SEQR review was done.

On the motion of Comm. Wickman, seconded by Comm. McGinley, voted and carried that no significant adverse environmental impacts were found and to issue a negative declaration.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT NO SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS WERE FOUND AND TO ISSUE A NEGATIVE DECLARATION.

The criteria for an area variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. No.
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. No.
3. Whether the requested area variance is substantial. Yes, overall, with the signage.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. None demonstrated, there has been a business there for sometime.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes.

On the motion of Comm. Wickman, seconded by Comm. Brown, voted and carried with the following stipulations; contingent upon the City Planning Commission’s recommendations with regards to the landscaping stipulations meeting City Code, the fuel delivery arrangements (coning off of the drive thru

during deliveries), the planting of shrubbery on Water Street, receiving the approval of the City DPW Superintendent and the NYS DOT with regards to the plans, contacting the Landscape & Design Commission and elimination of sign J and that pole sign B is to meet setback requirements.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE 162 TOMPKINS ST. – (EXPRESSMART)(SD) – AREA VARIANCE FOR SIGNAGE, DUMPSTER AND FRONT YARD SETBACK BE APPROVED WITH THE FOLLOWING STIPULATIONS; CONTINGENT UPON THE CITY PLANNING COMMISSION’S RECOMMENDATIONS WITH REGARDS TO THE LANDSCAPING STIPULATIONS MEETING CITY CODE, THE FUEL DELIVERY ARRANGEMENTS (CONING OFF OF THE DRIVE THRU DURING DELIVERIES), THE PLANTING OF SHRUBBERY ON WATER STREET, RECEIVING THE APPROVAL OF THE CITY DPW SUPERINTENDENT AND THE NYS DOT WITH REGARDS TO THE PLANS, CONTACTING THE LANDSCAPE & DESIGN COMMISSION AND ELIMINATION OF SIGN J AND THAT POLE SIGN B IS TO MEET SETBACK REQUIREMENTS.

The criteria for a Special Use Permit were reviewed.

1. That the lot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof. Yes.
2. That the proposed use will not prevent the orderly and reasonable use of adjacent properties. Can’t see where it would.
3. That the site is particularly suitable for the location of the proposed use in the community. Yes.
4. That the characteristics of the proposed use are not such that it’s proposed location would be unsuitably near to a church, school, public park or other similar uses. It isn’t near any of these.
5. That the access facilities are adequate for the estimated traffic from public streets or highways, so as to assure the public safety and to avoid traffic congestion, and further that the vehicular entrances and exits shall be clearly visible from the street and not be within fifty (50) feet. Yes, the exit is on Reynolds.

On the motion of Comm. McGinley, seconded by Comm. Wickman, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE SPECIAL USE PERMIT – 162 TOMPKINS ST. – (EXPRESSMART)(SD) – BE APPROVED.

Item No. 2 – 55 Tompkins St. – (Ruggiero)(R4) – Special Use Permit – Sorority

Gerry Ruggiero was present. Comm. McGinley noted that this building was used as a sorority when she moved here in 1968. Chair Hickey asked Mr. Ruggiero if his plan to convert this building to a sorority included major remodeling or differences in use of the property. Mr. Ruggiero stated that there would be no difference in the use of the property. He did state that he planned to remove stoves from kitchenettes throughout the building, so that there will be no cooking areas upstairs and he will be putting in cabinets. He noted that the rooms were large. He wants to try to restore the building and will not be putting up walls. He will try to take the paint off of the beautiful woodwork and replace doors with old doors, but he will be making no other changes.

Chair Hickey asked him if he will continue to have eleven (11) dwelling units. Mr. Ruggiero noted that it will be one (1) large dwelling unit; it was just classified that way. He has a tremendous amount of rooms and has requested occupancy of forty-five (45) students, but there has not been that many in the past. He stated that there are currently forty (40) legal parking spots in the back and he will be putting the lines on them. He stated that he will not change or remove any of the existing greenspace and he will not add any parking. He further stated that he has an understanding with the sorority right now that if they have more cars than available parking spaces; he will pay for their parking permits. He noted that he will be giving them more parking spots than they currently have at their present location.

Comm. Wickman asked if the college oversaw the activities of the sorority. Mr. Ruggiero explained that they did not, but that there was a Greek counselor on campus who oversaw disciplining. He explained that this sorority did have a den mother that will be living there at the house from Sunday through Thursday. She will be cooking meals and overseeing their behavior while there. He noted that the girls would be juniors and seniors and many of the seniors would be there for only one semester and then they would be student teaching, so the occupancy would go down in the second semester.

Comm. McGinley asked if the exterior of the building would remain the same. Mr. Ruggiero stated that it absolutely would remain the same and he has met with Historic Board Chairperson Kline and he plans to restore the building and will go before the Historic Board for any changes in landscaping, exterior cleaning, roofing and some window replacements.

There was no one further to speak; therefore the public hearing was closed.

On the motion of Comm. Brown, seconded by Comm. Wickman, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE SPECIAL USE PERMIT – 55 TOMPKINS ST. – (RUGGIERO)(R4) – SPECIAL USE PERMIT – SORORITY BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for a Special Use Permit were reviewed.

1. That the lot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof. Seems to be.
2. That the proposed use will not prevent the orderly and reasonable use of adjacent properties. Can't see that it would.
3. That the site is particularly suitable for the location of the proposed use in the community. Yes.
4. That the characteristics of the proposed use are not such that it's proposed location would be unsuitably near to a church, school, public park or other similar uses. No, it isn't
5. That the access facilities are adequate for the estimated traffic from public streets or highways, so as to assure the public safety and to avoid traffic congestion, and further that the vehicular entrances and exits shall be clearly visible from the street and not be within fifty (50) feet. They will be exiting on Reynolds.

On the motion of Comm. Brown, seconded by Comm. McGinley, voted and carried.

RESOLVED THAT THE SPECIAL USE PERMIT – 55 TOMPKINS ST. – (RUGGIERO)(R4) – SPECIAL USE PERMIT – SORORITY - BE APPROVED AS PRESENTED.

Item No. 3 – 14 Clayton Ave. – (YWCA)(CB) – Area Variance – Reduction in Parking space Size and Buffer Zone.

YWCA Director Amy Simrell and Civil Engineer Alex Wisniewski were present. Amy Simrell is requesting a ten (10) foot setback on the west side and an Area Variance allowing them to reduce some of the parking space sizes from ten (10) feet wide to nine (9) foot wide. She explained that they needed the variance on the buffer and commercial properties don't have many of those requirements, they are next to a multi-family unit and they must meet the buffer requirements. She noted that they have gone through review with the Historic Board twice and been approved and they've made two (2) trips to the Planning Commission for site plan review. The Planning Commission approved the project contingent upon Zoning Board approval and recommended that the Zoning Board grant an Area Variance. Alex Wisniewski will answer questions as well as she.

Chair Hickey noted that the information received from the Planning Commission indicated that they needed DPW approval for connecting to the City storm sewers and curb cuts, sidewalks, etc. Mr. Wisniewski noted that it was a permit application and the one issue that was discussed with the DPW and the City Engineer was the proposed storm drain connection and they will be relying on an onsite filtration system that will allow some of the water to dissipate into the ground and providing the connection into the City system for the overflow, only. The City Engineer asked Mr. Wisniewski to verify the infiltrative capacity of the ground by testing not by their soil survey and that is being scheduled now with the construction company that will be building the facility.

Chair Hickey noted that the YWCA problem with the buffer requirement was that it would take out a third of their proposed parking spaces. Amy Simrell gave a history of their property and parking. She indicated that they currently have nine (9) foot parking space widths and found them adequate.

Chair Hickey asked how many parking spaces they had across the street. Amy Simrell stated that there were nineteen (19) spots and they were not marked off. Comm. Haskell noted that only one parking area in the City had ten (10) foot wide parking spaces. Amy Simrell stated that they will be paving and striping the parking lot. Comm. Brown stated that he would like to see that the ten (10) foot by twenty (20) foot parking space size indicated in the City Code was adhered to. Amy Simrell stated that they would lose two (2) spots if that was done. Comm. Brown stated that if nine (9) foot wide parking spots were approved, that he would like to see them designated for compact cars only and other larger spaces be designated for vans only. He also expressed concerns regarding the lack of a buffer zone. He also stated that he would like to see a solid fence providing more of a visual barrier, rather than a chain link fence. Amy Simrell agreed that a different kind of fence could go in place of the chain link fence. She noted that the chain link fence probably would have to come down during the construction and paving process.

Zoning Officer Weber stated that they would have to go before the Historic Board with any proposal for a solid fence. He also explained that the first five (5) feet

was a landscaped area and then the fence could begin after that. He explained that to meet Code, it should not exceed a four (4) foot height and maintain a maximum enclosed ratio of a one to one spacing ratio for the next twenty (20) feet back and then rise to a six (6) foot maximum height of solid fencing in lieu of a buffer.

Zoning Officer Weber explained that since fencing was considered landscaping, that the fencing proposal would have to be brought before the Historic Board for their review and approval, but the rest of the project would not be halted waiting for that approval.

Mr. Ruggiero was present and he spoke in support of the project and he favored the YWCA project without a buffer and they prefer it without a buffer. He favored a fence as screening and he offered to donate parking to the YWCA staff in his lots on Clayton during the summer months.

There was no one further to speak; therefore the public hearing was closed. On the motion of Comm. Wickman, seconded by Comm. Brown, voted and carried.

RESOLVED THAT THE AREA VARIANCE – 14 CLAYTON AVE. – (YWCA)(CB) – AREA VARIANCE – REDUCTION IN PARKING SPACE SIZE AND BUFFER ZONE BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for an Area Variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. No.
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. They could stay with ten (10) foot wide spaces and lose two (2) spots.
3. Whether the requested area variance is substantial. Buffer is substantial, but parking space width reductions aren't that substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. No.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes.

On the motion of Comm. Brown, seconded by Comm. Wickman, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE FOR 14 CLAYTON AVE. – (YWCA)(CB) – AREA VARIANCE BE APPROVED CONTINGENT UPON THE DPW’S APPROVAL FOR THE STORM WATER SYSTEM, THE BUFFER STRIP IS TO BE REPLACED BY A SOLID SIX (6) FOOT HIGH FENCE TO MEET CITY CODE WHICH WILL BE NO MORE THAN FOUR (4) FOOT IN HEIGHT FOR TWENTY (20) FEET FROM THE FIVE (5) FOOT FRONT LANDSCAPED AREA AND THAT FIRST TWENTY (20) FOOT SOUTHERLY PORTION MUST BE OF A ONE TO ONE SPACING RATIO), MATERIAL AND DESIGN OF FENCING MUST BE APPROVED BY THE CITY HISTORIC BOARD AND THAT ONLY SOME OF THE PARKING SPACES BE APPROVED FOR A NINE (9) FOOT WIDTH AS PER THE SUBMITTED PLAN.

Item No. 4 – 35 Main St. – (Andrews)(CB) – Area Variance – Signage

Zoning Officer Weber explained that this item has been removed from the agenda, because it was determined that no variance was required.

Item No. 5 – 10 Monroe Hgts. – (Calabro)(R4) – Area Variance – Parking

Chair Hickey stated that this application has to be received by the Zoning Board and then referred to County and City Planning for their review and recommendation.

On the motion of Comm. Wickman, seconded by Comm. Haskell, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE – 10 MONROE HGTS. – (CALABRO)(R4) – AREA VARIANCE – PARKING BE RECEIVED AND REFERRED TO CITY AND COUNTY PLANNING FOR REVIEW AND RECOMMENDATION.

Item No. 6 – 12 Monroe Hgts. – (Calabro)(R4) – Area Variance – Parking

Chair Hickey stated that this application has to be received by the Zoning Board and then referred to County and City Planning for their review and recommendation.

On the motion of Comm. McGinley, seconded by Comm. Brown, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE AREA VARIANCE – 12 MONROE HGTS. – (CALABRO)(R4) – AREA VARIANCE – PARKING BE RECEIVED AND REFERRED TO CITY AND COUNTY PLANNING FOR REVIEW AND RECOMMENDATION.

Item No. 7 – Minutes – February 14, 2011

On the motion of Comm. Wickman, seconded by Comm. McGinley, voted and approved.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

RESOLVED THAT THE MINUTES OF FEBRUARY 14, 2011 BE APPROVED.

Adjournment

On the motion of Comm. Brown, seconded by Comm. Haskell voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. McGinley	Aye
Comm. Wickman	Aye		

I, MARY KAY HICKEY, CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NEW YORK, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 11TH DAY OF APRIL 2011.

MARY KAY HICKEY, CHAIRPERSON