

Zoning Board of Appeals
City of Cortland
May 9, 2011

A regular meeting of the Zoning Board of Appeals was held on Monday, May 9, 2011, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

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

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

Item No. 1 – 10 Monroe Heights – (Calabro)(R4) – Area Variance - Parking
Item No. 2 – 12 Monroe Heights – (Calabro)(R4) – Area Variance – Parking

Chair Hickey decided that it was appropriate to listen to the proposal for both parcels at the same time. Mark Weiss and Chris Calabro were present to answer questions. Mark Weiss distributed new drawings reflecting the changes made to the plans that were recommended by the Planning Commission. Mark Weiss explained that they were seeking several area variances to make parking area improvements. He explained that the owner needed twenty-eight (28) parking spaces and they needed a parking area for guests. They are asking for a reduction in parking space size from ten (10) feet to eight and a half (8 ½) feet. They want to move the driveway away from the house as there are some drainage issues and some of the tenants keep hitting the rear corner of 10 Monroe. They were also requesting a four (4) foot buffer reduction along the driveway area. They make it in the back between the parking lots, but they are asking for zero (0) buffer for the length of the driveway between the two parcels. They are also asking for a side yard buffer reduction on 12 Monroe where there is a little hammerhead, reducing the buffer from the required ten (10) feet to six feet four inches (6'4").

Chair Hickey reviewed the existing situation and the proposed changes utilizing the Planning Commission recommendations. Mark Weiss noted that the driveway was being lowered between the two structures and then would split off to access the two (2) separate parking areas.

Comm. McGinley asked if tenants would be backing out of the parking areas. Mr. Weiss indicated that it would be wide enough for tenants to pull right out, that there would be no need to back out. Comm. Brown asked where the guide rail would be located. Mr. Weiss indicated that it would be between the two (2) properties. He indicated that they met or exceeded the greenspace requirements except for the areas noted.

Chair Hickey asked if there had been any consideration to combining the two (2) properties. Mr. Calabro stated that he would not do that, but would put a cross easement drawn up between the two (2) properties that allows the ingress and egress to occur.

Chair Hickey asked about the distribution of parking spaces. She wanted to be sure that the greater number of parking spaces went with the larger building. Comm. Brown noted that if they were not approved for the less than ten (10) foot parking space width reduction, that they would lose two (2) parking spaces at 10 Monroe. Mr. Calabro stated that if the variance for parking space width was not approved he wouldn't be able to do this project. He noted that there was a single driveway entrance that splits off into two driveways each accessing its own parking area.

Comm. Haskell noted that students mostly drove smaller compact cars. Mr. Calabro stated that he would be removing the garage. Comm. Brown asked if he couldn't expand some of the parking area so that some of the parking spaces would be at ten (10) foot widths. Mr. Weiss stated that it couldn't be done. Comm. Brown was concerned that with extra parking spaces, there would be extra persons living there. Mr. Calabro stated that zoning laws prohibited that. Mr. Weiss noted that this project would actually reduce the amount of impervious area on the sites and there actually would be more greenspace.

Chair Hickey asked how many tenants were at each property. Mr. Calabro stated that there were six (6) tenants at 10 Monroe and 12 Monroe had two (2) units with thirteen (13) students and that was grandfathered.

Comm. Brown expressed concerns that they were commonly giving variances for eight and a half (8 ½) feet width parking spaces. Mr. Calabro noted that he didn't want to take down the garage, but the elevations wouldn't work with the slope of the property. Mr. Weiss noted that this was an improvement to the access into the parking areas.

Mr. Weiss noted that the Planning Commission comments were that they wanted landscape screening and to reduce the driveway width from twenty-four (24) feet to twenty (20) feet and that pulled it a little away from the 10 Monroe structure and they added a stop sign at the end of the driveway before the sidewalk. Mr. Weiss noted that this would be a two way driveway.

Comm. Brown asked if anyone had requested that Mr. Calabro change the property line to accommodate the driveway. Mr. Calabro stated that he will be putting a cross easement in place. Chair Hickey noted that he could alleviate problems by combining the lots. Mr. Weiss noted that there could be issues with the Code requirements for lot coverage, etc.

Zoning Officer Weber asked if they had spoken with Chris Bistocchi of the DPW with regards to drainage. Mr. Weiss stated that they had not spoken with Mr. Bistocchi and they had not been approved for a permit.

Chair Hickey listed the variance requests for this project. She noted that the applicant was requesting a reduction of the parking space size requirement from ten (10) feet to eight and an half (8 ½) foot widths at both properties, there was a request for a four (4) foot to zero (0) foot reduction of the buffer on both properties on the driveway side, and an encroachment into the buffer only at 12 Monroe.

Comm. Haskell asked if the applicant would be paving and striping the parking area. Mr. Calabro stated that he would be paving and striping and that there would be assigned parking spaces. Deputy Chief Knickerbocker asked if he planned to put in a handicapped parking spot since 10 Monroe was handicapped accessible. Mr. Weiss noted that they could alter the parking area to accommodate that, but then they would lose a parking space at 10 Monroe and then they will need to apply for a rear variance. Mr. Calabro stated that it wasn't accessible at this point, but they could drop the curb to do that. He noted that he could make that work with the stipulation that he would make a handicapped space if he should get a handicapped tenant. Zoning Officer Weber stated that they could lose the guest space and make it a handicapped space. Mr. Calabro stated that he needed every space, but that he could do that.

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

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

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

RESOLVED THAT THE AREA VARIANCE – 10 MONROE HEIGHTS – (CALABRO)(R4) – AREA VARIANCE – PARKING AND AREA VARIANCE – 12 MONROE HEIGHTS – (CALABRO)(R4) – PARKING BE PLACED ON THE TABLE FOR DELIBERATION SEPARATELY.

The criteria for an area variance for 10 Monroe Heights 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, it will be an improvement.
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 other way to do it due to the challenge in grade.

3. Whether the requested area variance is substantial. Yes.
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 and No.

On the motion of Comm. Dailey, seconded by Comm. Wickman, voted and carried to approve the area variance at 10 Monroe Heights to allow a variance of the landscape buffer to go from four (4) feet to zero (0) feet, to approve the reduction of parking spaces from a width of ten (10) feet to eight and a half feet (8 ½) and contingent upon the DPW's approval and inclusive of a handicapped spot if needed and that the number of tenants will not change due to the increase in the number of parking spaces.

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

RESOLVED THAT THE AREA VARIANCE 10 MONROE HEIGHTS – (CALABRO)(R4) – AREA VARIANCE TO ALLOW A VARIANCE OF THE LANDSCAPE BUFFER TO GO FROM FOUR (4) FEET TO ZERO (0) FEET, TO APPROVE THE REDUCTION OF PARKING SPACE WIDTHS FROM A WIDTH OF TEN (10) FEET TO EIGHT AND A HALF FEET (8 ½) AND CONTINGENT UPON THE DPW'S APPROVAL AND INCLUSIVE OF A HANDICAPPED SPOT IF NEEDED AND THAT THE NUMBER OF TENANTS WILL NOT CHANGE DUE TO THE INCREASE IN THE NUMBER OF PARKING SPACES.

The criteria for an area variance for 12 Monroe Heights 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.
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 and No.

On the motion of Comm. Brown, seconded by Comm. Dailey, voted and approved the area variance to allow a variance of the landscape buffer to go from four (4) feet to zero (0) feet, to approve the reduction of parking space width from ten (10) feet to eight and a half (8 ½) feet, contingent upon the approval of the DPW and that the number of tenants will not increase due to the increase in the number of parking spaces.

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

RESOLVED THAT THE AREA VARIANCE 12 MONROE HEIGHTS – (CALABRO)(R4) – AREA VARIANCE TO APPROVE A VARIANCE OF THE LANDSCAPE BUFFER TO GO FROM FOUR (4) FEET TO ZERO (0) FEET, TO APPROVE THE REDUCTION OF PARKING SPACE WIDTHS FROM A WIDTH OF TEN (10) FEET TO EIGHT AND A HALF FEET (8 ½) AND CONTINGENT UPON THE DPW’S APPROVAL AND THAT THE NUMBER OF TENANTS WILL NOT CHANGE DUE TO THE INCREASE IN THE NUMBER OF PARKING SPACES.

Item No. 3 – 180 Main St. – (Spadolini)(GB) – Use Variance – Signage

Chris Spadolini was present. He is asking for three (3) different variances for signage; one for the animated sign, one for an increased percentage in the amount allowed for window signage and one for greater than allowed and longer than display time allowed for banners.

Mr. Spadolini noted that the neighborhood is a safe one. He stated that his store is well lit and monitored with cameras and he has not had anything bad happen at this location.

Comm. Wickman asked if he was trying to attract neighborhood customers. Mr. Spadolini stated that he is trying to attract both neighborhood and drive by customers. Comm. Wickman asked why he had to put up a lottery banner. Mr. Spadolini noted that his store is independently owned and he doesn’t have access to television advertising monies like some of the chains. He noted that banners were the only way to capture the drive by customers with his banner advertised specials. Comm. Wickman asked how this location compared to his other location. Mr. Spadolini noted that it was about equal, but expenses were more at this location. He noted that he has more students stopping in. He explained that it was an improvement over what was there prior to the Daily Grind South. He noted that he needed a variance to be able to change the

banners frequently. Comm. Brown asked for an explanation of why this variance was needed.

Zoning Officer Weber stated that animated signs are prohibited and he read a definition from the City Code. Comm. Haskell asked him if this was a safety issue. Zoning Officer Weber stated that it was. Comm. Brown noted that the animated sign could be a distraction.

Mr. Spadolini noted that his banner signage will stay within the thirty (30) square foot limit if his request is approved to keep them up continuously. Zoning Officer Weber noted that City Code restricted banners to a three (3) foot by ten (10) foot space and must be of a temporary nature with no more than a display time of thirty (30) days three (3) times per year. He stated that this is a commercial area and that he would not have unattractive, shredded banners on display and that he would confine the banners to just the front of his store and not migrate down to the other storefronts in the building.

Comm. Brown noted that the front of the store looked busy with all of the signage. Mr. Spadolini stated that it was necessary and he felt that he would have a substantial loss of business if his signage was reduced. Chair Hickey noted that the banners appeared to be obscuring other signs. Comm. McGinley felt that the banners caught your eye more than window signage.

Comm. Dailey asked him which he felt were the most important. Mr. Spadolini felt that the scrolling sign and the window signage are the most important for drawing in customers. He noted that he felt that the scrolling LED sign did better for him than the temporary banners, people noticed the store more.

Comm. Brown felt that the banners should be confined to the maximum allowed space amount, but he felt that the ninety (90) day limit was an issue.

Zoning Officer Weber noted that the applicant could do a total of ninety (90) days straight or in thirty (30) increments. Comm. Wickman asked if the banners were provided by the various companies. Mr. Spadolini noted that companies provided the banners and they offered them to him frequently. Mr. Spadolini noted that he had calculated his window signage to be about sixty-five (65) percent and the allowed amount was twenty-five (25) percent.

Chair Hickey noted that the remodeling of that property was a tremendous improvement to the neighborhood.

Linda Parker asked to speak. She stated that she was a neighbor of the property and she was glad that the scroll light is there and that the lighting of the building has helped curb the raffish and the looks of the building has improved the neighborhood and she hopes that the Zoning Board of Appeals approves this

request. She stated that he has also purchased another property next door to this and she was sure that he will improve that property as well.

Chair Hickey noted that the criteria must prove financial hardship.

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

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

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

RESOLVED THAT THE USE VARIANCE – 180 MAIN ST. – (SPADOLINI)(GB) – USE VARIANCE – SIGNAGE BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for a use variance were reviewed.

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial. No financial evidence presented, only verbal guessing based on owner's past experience.
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood). Unique type of business.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Improves the neighborhood, but the signage might not.
4. The alleged hardship has not been self-created. Yes.

Zoning Officer Weber noted that the use variance is for the animated sign and the other signage requests are covered by area variances, but that the use variance would cover all.

On the motion of Comm. Dailey, seconded by Comm. McGinley, voted and carried to **DENY** the use variance for the scrolling LED sign, but to allow the window signage for up to 65% and to allow the temporary banners to be used year round for a ten (10) foot by thirty (30) foot section of the front porch railing in front of the owner's store.

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

RESOLVED THAT THE USE VARIANCE – 180 MAIN ST. – (SPADOLINI)(GB) – USE VARIANCE – SIGNAGE – BE DENIED FOR THE SCROLLING LED SIGN, BUT APPROVED TO ALLOW BOTH THE WINDOW SIGNAGE FOR UP TO 65% AND THE TEMPORARY BANNERS TO BE USED YEAR ROUND FOR A TEN (10) FOOT BY THIRTY (30) FOOT SECTION OF THE FRONT PORCH RAILING IN FRONT OF THE OWNER’S STORE.

Minutes – April 11, 2011

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

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

RESOLVED THAT THE MINUTES OF APRIL 11, 2011 BE APPROVED.

Adjournment

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Dailey	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 9TH DAY OF MAY 2011.

MARY KAY HICKEY, CHAIRPERSON