



# Department of Planning, Housing, & Community Development

**Mayor, Matthew T. Ryan**  
Director, Tarik Abdelazim

## **STAFF REPORT**

TO: Zoning Board of Appeals Members  
FROM: Planning Staff  
DATE: April 29, 2013  
SUBJECT: 83 Court Street; Area Variance  
TAX ID #: 160.41-1-16  
CASE: 2013-08  
COPIES: B. Seachrist, T. Costello, L. Webb (District 4), L. Gladstone, S. Campbell, File

---

### **A. REVIEW REQUESTED**

Stellar 83 Court, LLC has submitted an application for an area variance of Minimum Off-Street Parking in conjunction with a submitted application for Series A Site Plan / SUP review for a proposed mixed-use project at the properties known as 83 Court Street.

In the C-2 District, off-street parking requirements do not apply to land uses proposed within existing structures where no opportunity to provide parking exists, however projects involving new construction or expansion in the C-2 are required to meet the requirement. The proposed project involves a new construction 4<sup>th</sup> and 5<sup>th</sup> story addition to the existing structure at 83 Court Street (extending westerly from subject structure's Chenango Street frontage), which will be occupied by eight 2-bedroom units (4 units per floor), requiring a minimum of 12 off-street parking spaces be provided. The applicant has stated inability to secure long-term access to parking space that meets this requirement, and has applied for an area variance for minimum off-street parking from the Zoning Board of Appeals.

	Proposed	Required
Minimum Off-Street Parking	0	8 Two-Bedroom Units (Multi-Unit Dwelling) * 1.50 = 12 parking spaces

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative

that does not involve the necessity of an area variance;

- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

## **B. ADDITIONAL REVIEWS**

The project requires Series A Site Plan / Special Use Permit approval from the Planning Commission.

The project is located within an historic district and requires design review from the Commission on Architecture and Urban Design (CAUD). Applicant has submitted materials and will appear before CAUD at their April 30, 2013 meeting for review.

The project requires 239-m Review due to its proximity to a Broome County-owned property; the project was reviewed and no issues were stated.

The project is located within the boundaries of the LWRP; the applicant has submitted an application for review by the Waterfront Advisory Committee (WAC). The project is currently under review.

## **C. SITE REVIEW**

A multi-story structure known as the Midtown Mall covers the entire .54 acre site. The current parcel known as 83 Court Street is the result of a consolidation of several properties formerly known as 15-17 Chenango Street, 1 Commercial Alley, 83-85 & 87 Court Street. The ~100,000 square foot building footprint has been vacant since the early 1990s. The portion of the parcel with a Court Street frontage (previously known as 83-85 Court Street) was originally constructed in 1873.

A large portion of the structure's interior structure has been removed following damage resulting from a 2010 fire at the subject property.

The existing structure maintains several points of ingress/egress at 3 general locations- Chenango Street, Court Street and Commercial Alley. An elevated pedestrian walkway is attached to the 2<sup>nd</sup> story of the subject structure at the northern frontage (on Commercial Alley). The predominant land use in the vicinity of the Midtown Mall consists of commercial establishments.

The two-way street known as Commercial Alley is one city block in length, running south from its northmost boundary (Henry Street) until the subject property, where Commercial Alley extends further south to Court Street as a pedestrian-only path and plaza, with multi-modal traffic diverted west to State Street. For the purposes of clarity in this review, the north-south portion of Commercial Alley extending from 83 Court Street's northern property line to Court Street, that is reserved for pedestrian traffic, will be referred to as the Commercial Alley Pedway.

#### **D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY**

83 Court Street: In October of 2008, the Planning Commission approved a Series A Site Plan / Special Use Permit to Stellar 6001, LLC for a 2<sup>nd</sup>-5<sup>th</sup> floor multi-unit residential (200 total BRs, mixture of lofts, 1 BR and 2BR units) and Basement/1<sup>st</sup> Floor retail development in the C-2 District.

15-17 Chenango Street, 1 Commercial Alley, 83-85 & 87 Court Street: The Planning Commission approved a Series A Site Plan Review application submitted by Satra Realty in January of 2001 for the conversion of the second, third, fourth, and fifth floors of an existing building to apartments for students (45 One Bedroom, 2 Two-Bedroom), with 1<sup>st</sup> floor reserved for commercial uses.

60-68 Court Street: Adam Weitsman was given a Special Use Permit by the Planning Commission in March of 2000 to operate a billiard/pool hall.

60-68 Court Street: In June of 2011, the Planning Commission approved a series A Site Plan / Special Use Permit for a Cultural Facility and a Multi-Unit Dwelling (More than 4 Bedrooms) in the C-2 District.

73 Court Street: In April of 2011, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of upper-floor space to a Dormitory, Off-Campus.

73 Court Street: In June of 2012, Planning Staff granted a Series A Site Plan / Special Use Permit Exception for a Tavern in a former Tavern space.

80 Court Street: In March of 2010, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of a commercial space to two dwelling units.

#### **E. ENVIRONMENTAL IMPACT**

The applicant's proposal is a SEQR **UNLISTED** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
  - a. Type I
  - b. Type II
  - c. Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

## F. STAFF FINDINGS

Planning Staff has the following findings:

1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

The character of the neighborhood is that of a walkable downtown district with many multi-story, mixed-use, zero-lot-line structures; granting the requested variance will not produce a negative change in the character of the neighborhood.

2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.

Creation of surface parking to meet the off-street parking requirement would not be desired. The applicant cannot obtain dedicated use of parking spaces within the adjacent city-owned parking garage, but building tenants and users will have access to use on an as-needed basis.

3. The Zoning Board of Appeals must determine if the proposed area variances are substantial.

The requested variance for 12 parking spaces, in an area served by public transportation and a public parking garage is not considered substantial.

4. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.

**G. ENCLOSURES**

Enclosed is a copy of the site plan, 4<sup>th</sup> & 5<sup>th</sup> story floor plans, application and site photographs.

Sincerely,

Patrick C. Day  
Planner

Enclosures