



# Department of Planning, Housing, & Community Development

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

## ***STAFF REPORT***

TO: Zoning Board of Appeals Members  
FROM: Planning, Housing and Community Development  
DATE: July 2, 2013  
SUBJECT: 121 and 123 Susquehanna Street; Use Variance  
CASE: 2013-18  
COPIES: A. Sosa, L. Webb (District 4), L. Zier, B. Blakeslee, File

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### **A. VARIANCE REQUESTED**

Blakeslee Real Properties, LLC has submitted an application for a use variance to re-establish a deli and retail store offering food and convenience items at 123 Susquehanna Street. The property is zoned R-3 Residential Multi-Unit Dwelling District. The applicant's intent is to convert the dwelling from residential units to professional office, mental health. Retail sales is not permitted in the R-3 Zone; therefore a use variance is required from the Zoning Board of Appeals.

The proposed project would require five off-street parking spaces, one of which must be accessible. The site plan submitted by the applicant shows seven proposed parking spaces located at 123 Susquehanna Street. As evidenced by the attached photographs the existing area identified as parking is currently not meet the design and maintenance or buffer requirements contained in the Zoning Code. Specifically, the parking area is not paved as to provide a durable, dustless and continuous (from point of access to edge of the street except for required buffer areas) all-weather surface that is appropriately structured and bordered for permanence. Further, the parking Zoning Code required off-street parking areas containing more be four parking spaces be screened on each side adjoining a residential district or a residential facility or facing a street by a minimum five foot-wide perimeter landscape strip planted with shrubs and trees. If the Zoning Board grants the requested Use Variance Staff requests that its approval be conditioned upon submitted a revised site plan that meets the minimum standards for surfacing and landscaping contained in the Code.

In granting a use variance, the Zoning Board of Appeals must find the applicant has adequately demonstrated the following:

- (a). **Economic deprivation**: That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;
- (b). **Unique circumstances**: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character**: That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger public health or safety, or substantially diminish or impair property values in the neighborhood.

(d). **Self-created hardship**: That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in granting a use 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. SITE REVIEW**

The property known as 121 and 123 Susquehanna Street is located between Carol and Tudor Streets. 123 Susquehanna Street is improved with a one story commercial building, which is currently vacant but has historically be utilized as a retail store selling food and convenience items. 121 Susquehanna Street is improved with a one story vacant industrial type building. Land uses in the vicinity of site is a primarily residential with commercial uses a the west and east ends of Susquehanna Street.

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

142 Susquehanna Street: In 1979, the Zoning Board of Appeals granted area variances of rear yard setback and buffer requirements to Chenango Supply Inc. for the construction of an addition to an existing building.

144 Susquehanna Street: Mr. Jerome Kipper was granted area variances of rear yard setback and buffer requirements by the Zoning Board of Appeals in 1984.

149 Susquehanna Street:

- A use variance to convert a vacant garage into an auto repair shop and used car dealership was granted to Ms. Shirley Stone in 1996.
- Shirley Stone was granted permission, in 2002, for expansion of a non-conforming use to construct and addition and to expand the area in which vehicles are permitted to park, with the condition that the eastern half of the property must remain clear of all vehicles.

151-153 Susquehanna Street:

- The Planning Commission granted a Special Use Permit to Mr. Thomas Hager in 1988 to allow the conversion of the second and third floors of an existing building to eight one-bedroom residential dwelling units.
- Mr. Thomas Hager was granted three area variances in 1988 to allow the conversion of the second and third floors of an existing building to eight one-bedroom residential dwelling units.
- In 2002, the Zoning Board of Appeals granted use and area variances to Gloria Crowder to operate a restaurant.

165 Susquehanna Street: Stephen Metz received an area variance in 1997 to construct a covered walkway between two buildings.

561 Chenango Street: The Zoning Board of Appeals granted use and area variances to Ramesh Bhandari in 1996 to allow the expansion of a dentist office.

## **D. ENVIRONMENTAL IMPACT**

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board of Appeals 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. 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 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 C-1-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>

5. Final Motion to Approve/ Disapprove.

**E. STAFF FINDINGS**

Planning Staff has the following findings:

1. The Zoning Board of Appeals must determine that under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence.
2. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood. The area is residential in nature and comprised of mostly single and two-family residences. A dentist's office is located in the vicinity. A professional office, mental health will have a minimal impact on the character of the neighborhood.
3. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.
3. The Zoning Board of Appeals must determine if the requested variances are considered substantial.
4. The Zoning Board of Appeals must determine whether or not the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The Zoning Board of Appeals must determine if the alleged difficulty was self-created.

**F. RECOMMENDED CONDITIONS OF APPROVAL**

If the Zoning Board approves the proposed variance Staff recommends the following conditions of approval:

1. Prior to the occupancy of the building, or the issuance of building permits if required, a revised site plan shall be submitted to the Planning Department for review to determine minimum compliance with the standards set forth in Article X of the Zoning Code.
2. The sales of alcoholic beverages, including beer, wine and liquor, shall be prohibited.

#### **F. ENCLOSURES**

Enclosed are copies of the site plan, site photographs, and the application.

Prepared by:

Leigh McCulen  
Senior Planner

Enclosures