



# Department of Planning, Housing, & Community Development

**Mayor, Richard David**  
Director, Dr. Juliet Berling

## ***STAFF REPORT***

TO: Zoning Board of Appeals Members  
FROM: Planning, Housing and Community Development  
DATE: May 21, 2015  
SUBJECT: 162 Conklin Avenue; Area Variance  
TAX ID #: 160.59-2-1  
CASE: 2015-10

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### **A. REVIEW REQUESTED**

Robert Smith has submitted an application for an area variance for the required landscaped area at least five feet wide that shall be provided adjacent to public streets and along side and rear property lines at the property known as 162 Conklin Avenue.

§410-34 (G)(4) requires that a landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.. The submitted site plan indicates that the proposal does not meet the minimum 5’ landscaped area requirement along the sides, front, and rear of the property. The submitted site plan indicates no landscaped area along the northern, southern, eastern, and western property lines.

	Proposed	Required
Minimum Landscaped Area (Northern, Southern, Eastern, and Western Property Lines)	0 feet	5 feet

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**

None

## **C. SITE REVIEW**

The subject property is located on the southeast corner of Conklin Avenue and John Street. The dimensions of the lot are 54ft x 100ft. Situated on the lot is a mixed use residential building with ground floor commercial space. The majority of the rest of the lot is paved with asphalt.

Land use in the vicinity of the subject parcel is a mix of residential (primarily multi-unit dwellings), retail and commercial services.

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

### 130-136 Conklin Avenue, 1 Birch Street:

- A use variance was granted to Doug Gardner Enterprises in January of 2002 to assemble electronic components.
- In 1996, a Special Use Permit was denied to the Salvation Army to operate a church.

### 145 Conklin Avenue:

- The Planning Commission approved a Series A Site Plan application submitted by Crowley's in 1989 for a 1,680 sf addition to its existing milk processing facility.
- In 1989, the Zoning Board granted two area variances to Crowley's to permit the construction of a 1,680 sf addition on the western end of the complex.
- An area variance of front yard setback requirements was granted to Crowley's in 1988 for the construction of an addition to its plant.

146-156 Conklin Avenue, 7 Lucy Street:

- In March of 1999, the Planning Commission approved a Special Use Permit to allow the construction of a Manley’s Mighty Mart gasoline convenience market.
- The Zoning Board granted area variances of signage and rear yard setback requirements in March of 1999 to allow the construction of a Manley’s Mighty Mart gasoline convenience market.

162 Conklin Avenue: In 1970, the Zoning Board of Appeals denied an area variance request by Albert Stento to enlarge an existing building for use as a restaurant.

**E. ENVIRONMENTAL IMPACT**

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board should be the lead agency to determine any environmental significance related to the use and area variances.

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. The Zoning Board of Appeals is responsible for completing Part 2 & Part 3 of the Environmental Assessment Form (EAF) – see below.

**SEQR EAF Part 2 - Impact Assessment.** The Lead Agency (ZBA) is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the ZBA. When answering the questions the ZBA should be guided by the concept “Have our responses been reasonable considering the scale and context of the proposed action?”

	NO, OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<b>X</b>	
Will the proposed action result in a change in the use or intensity of use of land?	<b>X</b>	
Will the proposed action impair the character or quality of the existing community?	<b>X</b>	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<b>X</b>	
Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<b>X</b>	

Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<b>X</b>	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	<b>X</b>	
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<b>X</b>	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<b>X</b>	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	<b>X</b>	
Will the proposed action create a hazard to environmental resources or human health?	<b>X</b>	

**EAF Part 3 - Determination of significance.** For every question in Part 2 that answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- If the ZBA determines that the proposed action may result in one or more potentially large or significant adverse impacts an environmental impact statement is required.
- The ZBA may issue a Negative Declaration if it is determined that the proposed action will not result in any significant adverse environmental impacts.

## **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.**
- 2. 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 proposed area variances are 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, site photographs, and application.