



Department of Planning, Housing, & Community Development

Mayor, Richard C. David
Acting Director, Jennifer M. Taylor

STAFF REPORT

TO: Planning Commission Members
FROM: Tito L. Martinez, Planner
DATE: April 7, 2014
SUBJECT: 162 Court Street; Area Variance
TM ID #: 160.42-1-13
CASE: 2014-08
COPIES: A. Sosa, T. Costello, L. Webb (District 4), File

A. REVIEW REQUESTED

The applicant has submitted an application for an Area Variance for the minimum parking requirement for a mixed-use commercial/residential property at 162 Court Street.

The proposed use is defined as a Multi-unit dwelling containing dwelling units with More than 4 Bedrooms. This use requires that 2.33 off-street parking spaces be provided per dwelling unit. The submitted materials indicate ten (10) proposed units. Therefore, the proposed project requires twenty-three (23) off-street parking spaces be provided within 800 feet of the subject property. The requested variance would allow the provision of zero 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

239 L&M Review (Broome County Department of Planning & Economic Development, BMTS, NYSDOT)
The proposed project is within 500 feet of a Broome County-owned facility, and is therefore subject to 239 distribution and comment by Broome County Department of Economic Development & Planning.

E. SITE REVIEW

The subject property is located on the south side of Court Street, one parcel east of the southeast corner of Carroll Street and Court Street. The subject parcel measures 55' in width, with a depth of 108'. A four-story building, and a one-story attached building to the south of it, occupies the entire parcel.

Land use in the immediate vicinity of 162 Court Street is predominately commercial, with an additional mix of multi-unit dwellings, community services, industrial uses and a small number of single unit dwellings. The Broome County Public Library is located to the east of the subject parcel.

Commercial uses in the area include: USA Spas, White Elna Sewing Machine Center and Matthews Auto Collision Center.

F. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

162 Court Street: The Applicant's application for Site Plan Review and a Special Use Permit for the conversion of the property to mixed-use with 10 residential units and 2 ground-floor commercial units was approved by the Planning Commission in 2013.

143 Court Street: George Pash received a Special Use Permit from the Planning Commission in 1996 to construct an addition to a previously-approved technology center to be used for light manufacturing.

151 Court Street:

- In 1994, James Matthews was granted a Special Use Permit from the Planning Commission to convert a former car dealership into a technology center.
- The Zoning Board of Appeals granted a use variance to William Dietzsch in 1984 to enlarge an existing non-conforming use (car dealership).

156-158 Court Street:

- Thomas Aquino was granted an area variance of stall-to-curb dimensions by the Zoning Board of Appeals in 1997 for an off-street parking lot.
- In 1997, the Planning Commission approved a Series A Site Plan Review submitted by Thomas Aquino for an off-street parking lot.

166-168 Court Street: In 1991, the Zoning Board of Appeals granted Antos Kos and Stanislaw Chojnacka an area variance for off-street parking requirements.

169-187 Court Street:

- The Zoning Board of Appeals granted an area variance of off-street parking requirements for a retail business to Akel Realty Corp. in 1988.
- The Zoning Board of Appeals granted an area variance to Akel Realty Corp. and Giant Operating Corp. in 1977 for a reduced number of on-site parking spaces. The variance had one restriction, which was to screen the property from 4 Pine Street and 191 Court Street with evergreen shrubbery.

174 Court Street: In 1980, the Planning Commission reviewed Doron Industry's Development Plan. Doron Industry had to submit an Environmental Assessment (EA) to the Broome Industrial Development Agency prior to project funding approval.

184 Court Street: The Zoning Board of Appeals granted a use variance to the Akel Realty Corporation in 1974 to allow a pre-existing building to be used for light manufacturing.

185 Court Street: In 1987, the Zoning Board of Appeals granted Wall to Wall Sound and Video a variance to allow three signs to be constructed on said property.

200 Court Street: In 1979, the Zoning Board of Appeals granted an expansion of a non-conforming use to the Sheltered Workshop to allow the construction of a third floor addition to an existing two-story building for manufacturing and office purposes.

202 Court Street: The Sheltered Workshop was granted use and area variances in 1979 to allow manufacturing and office uses.

210 Court Street:

- In 1995, the Special Use Permit that was granted to Robert Pornbeck in 1993 was extended to allow gasoline sales at the existing convenience store. The applicant was required to comply with the original site plan. The original site plan was never complied with, as the canopy was constructed in a different location than was approved and the landscaping was never installed.
- In 1993, a Special Use Permit was granted to Robert Pornbeck to convert a vacant building into a convenience store and filling station. The Special Use Permit was contingent upon the submission of a landscaping plan to the Planning Department and the installation of plantings upon Planning staff approval. The Planning Commission waived the landscaping requirements along Stuyvesant Street and the driveway intersection setback requirements.
- In 1988, a Series B Site Plan application submitted by Edwin Gent was approved by the Planning Department to allow a muffler shop.

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.

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. (See EAS Part 2 & Part 3)

	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?	X	
Will the proposed action result in a change in the use or intensity of use of land?	X	
Will the proposed action impair the character or quality of the existing community?	X	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	
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?	X	
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?	X	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	X	
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	X	
Will the proposed action create a hazard to environmental resources or human health?	X	

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 project as a whole has an overall positive change on the neighborhood. The requested parking variance in particular, however, could **potentially** affect parking availability in the vicinity.

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

A reasonable alternative would be for the applicant to lease parking spaces from a property within 800 feet of the site. The applicant has sought out potential parking areas to lease, but has not been able to come to an agreement with any local property owners.

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

The request is not substantial in nature. The property is located in the Court Street Historic District and would have been eligible for a waiver of parking requirements under Planning Commission review. OCC and BC Transit stops are in close proximity to the subject property, and there is an abundance of surface parking in the area, including on-street parking.

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

H. ENCLOSURES

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

Report prepared by:

Tito L. Martinez, Planner