



Department of Planning, Housing, & Community Development

Mayor, Richard C. David
Director, Jennie Skeadas-Sherry AICP

Staff Report Area Variance

Zoning Board of Appeals Meeting Date: November 4, 2014
Address: 200 Court Street
Tax ID#: 160.42-2-25
Case Number: 2014-28
Zoning: Service Commercial District (C-1)

REVIEW REQUESTED

This application involves the conversion of a three story, 136,245 square foot, vacant manufacturing building into a multi-family dwelling containing 49 units with 163 bedrooms. The development would include a variety of amenity spaces located on each floor of the building, as well as, 150 existing parking spaces; 77 spaces are located on site and 73 spaces are located immediately adjacent to the site at 34 Stuyvesant Street (Tax ID 160.42-2-41 and 160.34-2-45).

The subject building has historically been utilized for light manufacturing however it is currently vacant. The proposed rehabilitation of the building would include conversion of the entire ground floor into residential uses. Residential uses are not permitted on the ground floor in the C-1 Service Commercial District; therefore a variance from the Zoning Board of Appeals is required. The conversion of ground floor non-residential spaces to residential is prohibited in the C-1 Zone to maintain the integrity of commercial streets and preserve commercial store fronts for small business development and to encourage upper floor residential conversions were it is more appropriate.

STAFF FINDINGS AND RECOMMENDATIONS

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.

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.

Properties along this segment of Court Street are improved with a variety of commercial, institutional, and residential uses. There are nine properties within one block to the east and one block to the west of the site that have residential uses on the ground floor. However, the subject site has historically been utilized for industrial uses. While ground floor residential uses are not incompatible with the character of the area, it would be inconsistent with the historic character of the subject building.

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

Alternatively, commercial space(s) could be reserved within all or portions of the ground floor.

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

The request could be considered substantial since the entire ground floor of the subject building is being converted to residential.

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

The application indicates that attempts to lease commercial space with the building have yielded little to no response.

OTHER REVIEWS

The proposed project requires a Series A Site Plan / Special Use Permit review by the Planning Commission.

Project plans have been routed to the Building Department, Fire Department, Public Works and Water Department for review. Comments from these departments were due by October 15, 2014.

The project also requires review by Broome County pursuant to New York Municipal Law 239 L and M. Comments are attached.

SITE REVIEW

The property known as 200 Court Street is a corner lot with 197 feet of frontage along Court Street and 342 feet of frontage along Stuyvesant Street. A large 3-story, brick building is situated on the northern portion of the lot. The development includes an ancillary parking lot located at 34 Stuyvesant Street which has historically been associated with 200 Court Street.

Land use along Court Street contains a mix of apartments, parking lots, commercial establishments, and two churches.

PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

203 Court Street: In 2014, The Planning Commission approved a Series A Site Plan/Special Use Permit to establish a Medical Clinic within an existing building.

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.

26 Stuyvesant Street: Area variances were granted to Mario Mughetti in 1981 to permit the enlargement of an existing garage.

29 Stuyvesant Street: The Zoning Board of Appeals granted area variances to the Sheltered Workshop in 2002 for an off-street parking lot.

33 Stuyvesant Street: An expansion of a non-conforming use was granted to the Sheltered Workshop in 1979 to enlarge the existing loading docks.

25 Fayette Street:

- In 1985, Ronald Phelps received use and area variances to re-open a laundromat that was closed for several years.
- The Zoning Board of Appeals denied a request by Gordon French in 1984 to re-open a laundromat that had been closed for several years.

30 Fayette Street: A request by David Duzba in 1985 to receive an area variance of off-street parking requirements for a rooming house was denied by the Zoning Board of Appeals.

32 Fayette Street:

- Sheltered Workshop was granted area variances to install two signs in 2002 with conditions.

- A Series A Site Plan was approved allowing the Sheltered Workshop to construct an off-street parking lot.

50 Pine Street: The Sheltered Workshop for the Disabled received approval from the Zoning Board of Appeals in 2001 to expand a non-conforming use by constructing a 2,250 square foot loading dock area.

51 Pine Street: Brothers Realty was granted use and area variances in 1988 to use a vacant lot as an off-street parking area.

COMPREHENSIVE PLAN CONSISTENCY

The future land use map in the City’s 2014 Comprehensive Plan identifies this site as “traditional commercial”. While this project is inconsistent with that land use classification, the redevelopment of this vacant manufacturing building is in line with recommendation 1.1 in the housing chapter which discusses the need for a strategic approach to neighborhood stabilization and revitalization. The area in which this project is located is identified as a “renew” area because of average to poor housing conditions, deterioration and vacancy. Redevelopment of this property has the potential to help spur revitalization in the area with new occupants and pedestrian activity.

ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR Unlisted Action. The Zoning Board of Appeals should be the lead agency to determine any environmental significance related to the variance.

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 Short EAF Part 1 – Project and Setting. Part I has been provide by the project applicant.

SEQR EAF Part 2 - Impact Assessment. The Lead Agency (Zoning Board of Appeals) 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 Zoning Board. When answering the questions the Zoning Board 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?		
Will the proposed action result in a change in the use or intensity of use of land?		
Will the proposed action impair the character or quality of the existing community?		
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		

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

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

ENCLOSURES

Enclosed are copies of the project plans, site photographs, and the application.