



# Department of Planning, Housing, & Community Development

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

## **STAFF REPORT**

TO: Zoning Board of Appeals Members  
FROM: Planning, Housing and Community Development  
DATE: November 7, 2013  
SUBJECT: 21 Main Street; Area Variance  
TM ID #: 160.40-1-42  
CASE: 2013-26  
COPIES: T. Abdelazim, A. Sosa, T. Costello, T. Rennia, Applicant, File

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### **A. VARIANCE REQUESTED**

This application would provide for area variances related to signage for a full-service restaurant at the property known as 21 Main Street; the property is located in the C-1, Service Commercial District.

The Applicant has proposed the following signs for the project:

- One (1) wall sign, consisting of externally-illuminated channel letters, 12.4 inches high by 193 inches long, facing Main Street
- One (1) awning sign, 42.85 inches high by 53.25 inches long, facing Main Street
- One (1) projecting sign, 4 feet tall by 4 feet long, facing Front Street

The Applicant has stated that the number and size of signs is necessary for their location to be visible and attract business from both Main Street and Front Street.

Article XI, Sign Regulations, of the City of Binghamton Zoning Code establishes the standards for signage in the City of Binghamton. §410-65 of the Zoning Code establishes the specific signage standards for the C-1 District. The proposed signage is not compliant with the regulations for the C-1 District and therefore requires an area variance:

	<b>Permitted by Zoning Code</b>	<b>Proposed</b>
Total Number of Signs	2	3
Maximum Awning Sign size	16" high by 72" long	42.85" high by 53.25" long

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. SITE REVIEW**

The site is located on the south side of Main Street between Front Street and Oak Street. The site is improved with a two story building containing 1,760 square feet of ground floor commercial space with two existing residential units on the second floor.

Land use in the vicinity of the subject properties consists of a mix of commercial and institutional.

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

21 Main Street: in 2013, the Zoning Board of Appeals granted an area variance for off street parking for the currently proposed project.

21 Main Street: In 2013, the Planning Department approved a Series A Site Plan Exception Application submitted by the current Applicant.

96 Front Street: In 2010, the Zoning Board of Appeals granted an area variance for off-street parking for a restaurant (Thai Time).

44 Main Street – In 1988, the Broome County Health Department was granted a Special Use Permit to use the basement of Trinity Memorial Church as a clinic and day care center.

52 Main Street - In 1982, a request by Anthony Mincolla to operate an arcade was granted by the Planning Commission.

55 Main Street - An area variance of off-street parking requirements was granted in 1990 by the Zoning Board of Appeals to allow the conversion of an existing building for use as an apartment, medical office, and

a professional office.

57 Main Street - In 1989, the Zoning Board of Appeals granted an area variance of off-street parking requirements to allow the reconstruction of a restaurant following a fire.

**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. 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 C-1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
	<b>X</b>					

**E. 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.**

There are a number of vacant storefronts, including the subject tenant space, within the area. Approval of this sign variance would increase the visibility of a new restaurant, potentially spurring subsequent investment along Main and Front Streets.

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

The proposed awning and illuminated wall signs would contribute aesthetically to the area, but would not be visible from Front Street. Granting a variance to include a third, projecting sign would provide visibility from the intersection while allowing the Applicant to keep the awning and wall signs. There is no reasonable alternative that would achieve this.

**3. The Zoning Board of Appeals must determine if the requested variance is considered substantial.**

The applicant is asking for one more sign than what is permitted by code. The applicant is also asking for an awning sign that is of non-compliant height, but compliant in width. The additional sign height on the awning is not a substantial request.

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

The Applicant willingly designed the signs as proposed, therefore, the hardship is arguably self-created.

Staff recommends the following condition of approval:

That the projecting sign be installed a minimum of 4 feet from either edge of the building's façade, in order to comply with §410-65B(2)(e).

**F. ENCLOSURES**

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

Prepared by:

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Planner