



# Department of Planning, Housing, & Community Development

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

## **STAFF REPORT**

TO: Zoning Board of Appeals Members  
FROM: Planning, Housing and Community Development  
DATE: 20 May 2014  
SUBJECT: 250 Washington Street and 201 State Street; Area Variance  
TAX ID: 160.33-1-37; 160.33-1-31  
CASE: 2014-13

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### **A. VARIANCE REQUESTED**

The applicant has requested a rear setback variance to construct a deck attached to a structure on an adjacent parcel. The site is located within the C-2, Downtown Business District. The proposed deck would be part of the structure located at 201 State Street, which has been approved for a Tavern/Nightclub use. The property at 201 State Street has a rear setback of zero (0) feet; the proposed deck would extend over the property line onto the parcel of 250 Washington Street. In the C-2 District, a rear setback of twenty (20) feet is required per §410-33 of the City of Binghamton Zoning Code. The project as proposed would result in a setback of zero (0) feet on both properties.

Because the proposed deck would be located on 250 Washington Street but be attached to the building on 201 State Street, a permanent easement must be obtained and filed by the applicant to allow for the use of the deck by the property at 201 State Street. The applicant has been notified of this requirement; to date, no documentation of such an easement has been provided to the City by the applicant.

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 composed of two adjacent parcels which share a rear property line: 250 Washington Street and 201 State Street. 250 Washington Street is a 0.12 acre lot on the east side of Washington Street between E. Clinton Street and Henry Street. The structure on the site is a two-story Classical Revival structure, originally constructed ca. 1835 as a residential structure. It has subsequently been converted to office space, and most recently have been used as a fraternity house; according to the applicant, the structure is currently vacant. 201 State Street is a 0.07 acre parcel, located on the west side of State Street between Lewis Street and Henry Street. It is a three-story mixed use building with a Tavern/Nightclub on the first floor and a total of four (4) two bedroom residential units on the second and third floors.

The proposed deck would extend off the rear of the structure at 201 State Street, over the parcel line onto the parcel at 250 Washington Street.

Land use in the area is a mix of multi-unit residential structures and various commercial storefronts. Notable uses in the vicinity include two large church buildings, an automobile service facility, residential units, and the Forum Theatre on Washington Street, and restaurants, art galleries, residential units, and professional offices on State Street.

## **C. ADDITIONAL REVIEWS**

Both 250 Washington Street and 201 State Street are designated historic properties. 250 Washington Street is individually designated as a Local Landmark Property due to its age (ca. 1835) and Classical Revival architecture; 201 State Street is a contributing property to the State Street and Henry Street Local and National Register Historic District. Any exterior modifications to either building must be reviewed and approved by the Commission on Architecture and Urban Design (CAUD). The applicant has filed for Design Review by CAUD and is scheduled to be on the 27 May 2014 CAUD meeting.

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

23 E. Clinton Street: On December 21, 2013, Series A Site Plan / SUP Review Exception was granted for a yoga studio (applicant: Yaron Kweller).

1 Lewis Street: The Planning Commission granted Series A Site Plan / Special Use Permit Review approval for a mixed use project (Multi-Unit Dwelling & Commercial Use TBD) on October 3, 2011 (applicant: Tobey Kellam).

5-7 Lewis Street: The Planning Commission approved a Series A Site Plan submitted by ISI Associates in 1998 to construct a parking lot.

23 Henry Street: In 2011, Planning staff approved a Series A Site Plan Exception application submitted by Burger Mondays to operate a full service restaurant in the C-2 Business district.

196 State Street: In June, 2011, the Planning Commission granted Series A Site Plan & Special Use Permit approval to Thomas Haines for the conversion of an existing structure to an Off-Campus Dormitory in the C-2, Downtown Business District.

199 State Street: In May, 2009, Planning staff granted Series A Site Plan Exception approval to Grafika Creative Services to operate a marketing and graphic design business in the C-2 Business District.

201 State Street: In May 2013, Series A Exceptions were approved for four, two-bedroom units on the upper floors and a Tavern/Nightclub on the first floor.

187 Washington Street: A Special Use Permit was granted to Christ Church in 1990 by the Planning Commission for the operation of a pre-school within the existing church building.

227-241 Washington Street: In 1989, the Zoning Board of Appeals granted two area variances regarding off-street parking requirements to Sarbro Realty to permit the construction of an office building.

245 and 249 Washington Street: In 1987, the Planning Commission granted a Special Use Permit to the First Assembly of God to use the building at 249 Washington Street as an accessory to the church and to use 245 Washington Street for parking.

251-263 Washington Street: In March 2013, Kevin Findley was approved for the conversion of two buildings to multi-unit residential at 251 Washington Street and 263 Washington Street.

## **E. ENVIRONMENTAL IMPACT**

The applicant's proposal is a SEQR **Type II** Action. No further Environmental action is necessary.

## **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 variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district.**
- 5. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.**

Planning Staff would strongly recommend the following conditions, should the Zoning Board of Appeal decide to grant the requested variance:?

- 1. That the applicant obtain all necessary approvals from the Commission on Architecture and Urban Design (CAUD) prior to any building permit being issued and or any work being undertaken;**
- 2. That the Applicant and/or their design professional confirm in writing with the Office of Building Construction that the proposed plans meet all appropriate Building and Fire Safety Codes to ensure that the health, safety, and welfare of the public are not compromised by the proposed deck; and**
- 3. That the Applicant obtains and files with the appropriate agencies, including the City of Binghamton, necessary easements as determined by Corporation Counsel before any work is begun.**

#### **G. ENCLOSURES**

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