



# Department of Planning, Housing, & Community Development

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

## Staff Report

**ZBA Date:** 7 October 2014  
**Project Address:** 483 Chenango Street  
**Applicant Name:** Kurt Eschbach  
**Tax ID Number:** 144.58-1-32  
**Case Number:** ZBA 2014-25  
**Zoning District:** Limited Neighborhood Commercial District (C-6)

---

### REVIEW REQUESTED

On 29 August 2014, Kurt Eschbach, the property and business owner, submitted an application for area variances for the installation of a pole sign for an existing business at 483 Chenango Street. The pole sign would measure a eight (8) feet wide by four (4) feet tall. It would placed on an 11 foot tall pole, for a total height of 15 feet above grade. The pole would be four (4) inches wide. At its closest point, the outer edge of the cabinet, the sign would be located approximately one (1) foot from the property line.

The site is located in the C-6 Limited Neighborhood Commercial District. 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-6 District. The proposed wall signs do not comply with these standards, and therefore, the proposal would require the area variances listed below:

	<b>Permitted by Zoning Code</b>	<b>Proposed</b>
Pole Sign	Not Permitted	1 Pole Sign
Minimum setback for a Pole Sign	5 feet	1 foot
Background Colors for Internally Illuminated Sign	Dark/opaque background color with lighter lettering	Light blue and light grey background with dark lettering

### STAFF COMMENTS

In April 2014, City Council adopted a new Sign Ordinance for the City of Binghamton. Under the previous sign ordinance, a Pole Sign would have been allowed in the C-6 District. As the C-6 Limited Neighborhood Commercial District is intended to allow small scale commercial businesses to coexist with the residential uses, but are limited in order to assure compatibility with the residential uses, it was determined that pole signs would no longer be a permitted sign type in the C-6 District. Currently, there are only three (3) properties within this C-6 District with pre-existing pole signs, which are now considered to be non-conforming.

Both the current and the old sign ordinance require that no part of a pole sign be located less than five (5) feet from the property line. It appears from the Applicant's submitted sign plan that it would be possible to move

the proposed sign closer to the building in order to either reduce or eliminate the need for this variance.

The new sign ordinance includes a minimum design standard provision that requires internally illuminated signs to have a dark or opaque background with lighter sign copy (“text”) and that internally illuminated signs with white or light colored backgrounds and darker copy are not permitted. This provision was included for aesthetic reasons, as well as for traffic safety and legibility. Studies, as conducted by the United States Sign Council (a sign industry policy group), have shown that signs with light colored backgrounds and darker lettering are more difficult for drivers to read, especially at night. This is because the darker lettering gets overwhelmed by the light being emitted from the lighter background.

While Planning Staff are supportive of the Applicant having effective signage for the their business, Staff does not support the signage as proposed. The placement of an “Accessory Sign,” directing visitors into the parking areas would allow the business to achieve its goal of effectively advertising their business while still meeting the requirements of the Zoning Code. Additionally, Staff would be supportive of relocating the existing freestanding sign facing Chenango Street, which is considered a legal pre-existing non-conforming sign, from in front of the building around to an existing concrete area on the south side of the building. This would provide effective signage for vehicles traveling north. The existing freestanding sign on the north side of the building, also a legal pre-existing non-conforming sign, could remain in the place. The Applicant could add external illumination. Alternately, the applicant could replace this second freestanding sign with a wall sign, which is allowed in the C-6 District.

#### ADDITIONAL REVIEWS

239 L&M Review (Broome County Department of Planning & Economic Development, BMTS, NYSDOT). The proposed project is within 500 feet of a state road and a Broome County-owned facility, and is therefore subject to 239 distribution and comment by Broome County Department of Economic Development & Planning. The request for 239 L&M review was submitted to Broome County Planning on 5 September 2014.

#### SITE REVIEW

The subject site is composed of six (6) parcels: 481 Chenango Street (144.58-1-33); 483 Chenango Street (144.58-1-32); 485 Chenango Street (144.58-1-31); 4 North Avenue (144.58-1-34); 8 North Avenue (144.58-1-35); and 10 North Avenue (144.58-1-36). 483 Chenango Street has a converted residence, used as a Funeral Home; the other five (5) lots are all parking for the funeral home use. The structure on 483 Chenango Street is a converted two (2) story residential structure with attic, and several additions on the north and west sides of the structure. The parking lot wraps around the structure with vehicle access from Chenango Street on both the north and south sides of the structure.

Immediately south of the subject site is the recently realigned I-81 overpass. East of the subject property is a small insurance office, and to the north are a single residential structure, several commercial spaces (some vacant/deteriorated, some occupied), an used car dealer, and a flower shop. The areas further east of Chenango Street and to the west of the subject property are primarily residential.

#### PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

##### 491 Chenango Street:

- The Zoning Board of Appeals granted an expansion of a non-conforming use and area variances to Dennis Diorio in 2001 to construct a 20’ by 24’ addition to an existing used car sales business.
- In 1985, use and area variances were granted to Dennis Doebler to operate a used car sales business.

503 Chenango Street: Nance Brown was granted two area variances in 1992 to reduce the size of the lot and pave a driveway.

507 Chenango Street: Two area variances were granted to Michael Kettle in 1987 to allow the conversion of a two-family residence to a three-family residence.

COMPREHENSIVE PLAN & INITIATIVES IDENTIFIED FOR SUBJECT AREA

The existing use is consistent with the Future Land Use map in the *Blueprint Binghamton* Comprehensive Plan. No other specific recommendations relate to this case.

ENVIRONMENTAL IMPACT

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. After the Public Hearing, Determination of Significance based on:

	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: <ol style="list-style-type: none"> <li>A. public / private water supplies?</li> <li>B. public / private wastewater treatment utilities?</li> </ol>		
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, water bodies, 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?		

**STANDARDS FOR GRANTING OF VARIANCES**

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.