



# Department of Planning, Housing, & Community Development

Mayor, Richard C. David  
Director, Dr. Juliet Berling

## STAFF REPORT

TO: Zoning Board of Appeals Members  
DATE: 26 March 2015  
SUBJECT: 55 Robinson Street; Area Variance for Signage  
TAX ID #: 144.83-2-16  
CASE: ZBA 2015-06  
COPIES: B. Seachrist, T. Costello, Salah Salah, File

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### A. VARIANCE REQUESTED

A representative of Jax Signs, on behalf of Salah Salah, the business and property owner, has submitted an application for an area variance related to signage, at the property known as 55 Robinson Street; the property is located in the R-3, Residential Multi-Unit Dwelling District. The signs are located on the front and side façades of the building, facing Robinson and Liberty Street.

The Applicant has proposed the following new signs for the project:

- Two (2) wall signs measuring 3 ft tall by 8 ft long, projecting 7 inches from building, and internally illuminated with LED light sticks.

The proposed signage is associated with a re-established deli and retail store that offers food and convenience items. The ZBA approved a use variance for this project on September 3, 2014.

Article XI, Sign Regulations, of the City of Binghamton Zoning Code establishes the standards for signage in the City of Binghamton. §410-66 of the Zoning Code establishes the specific signage standards for the R-3 District. The proposed signs do not comply with these standards, and therefore, the proposal would require the area variances listed below:

	Permitted by Zoning Code	Proposed
Maximum Number of Signs per Parcel	1 sign	2 total
Maximum Size of a Wall Sign	2 square feet	3 feet tall by 8 feet long, 24 square feet
Illuminated Sign in an R3	Not Permitted	2 illuminated signs

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**

The sign proposal does not require approval from the Planning Commission.

The property is not located in any historic district, and is not a designated local landmark; review by the Commission on Architecture and Urban Design is not required.

The project is not located within the Local Waterfront Revitalization Program (LWRP) area; it does not require consistency review by the Waterfront Advisory Committee.

The proposed project does not include any modifications to the surface lot and does not require a Stormwater Pollution Prevention Plan (SWPPP).

The project does require 239 L&M review from the Broome County Planning Department. The application has been routed to the County for comments.

## **C. SITE REVIEW**

The property known as 55 Robinson Street is located at the northeast corner of Robinson and Liberty Streets. The site is improved with a two story mixed-use building, with a vacant 975 square foot commercial tenant space on the ground floor. The upper floor is used as residential. The commercial space has historically been utilized as a retail store selling food and convenience items and a restaurant.

Land use in the vicinity of 55-57 Robinson Street consists primarily of residential parcels. On the western side of the property there is a mix of residential one and two family dwellings. On the parcel to the south is a large vacant lot. On the north side is more residential properties and on the east are the highway and a large bridge running overhead.

## D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

### 46-50 Robinson Street:

- The Zoning Board of Appeals granted an area variance to Anthony and Carol Fabrizio in 1981 to allow the construction of a ranch-style residence.
- Americo DiCamillo was granted an area variance by the Zoning Board of Appeals in 1985 to allow the construction of a six-family house.
- Americo Dicamillo had a recreation plan approved by the Planning Commission in 1985 to allow him the option of building a six-unit apartment building.

55 Robinson Street: In 2006, the Zoning Board of Appeals denied a use variance to establish an automobile repair business and a convenience store.

55 Robinson Street: In 1993, use and area variances were granted to Ilona Rhyno to convert a non-conforming food service take-out business into a restaurant.

### 67-71 Robinson Street:

- In 2000, Commonwealth Sign Company withdrew an application to the Zoning Board of Appeals for an area variance for maximum sign height.
- In 1975, an area variance of rear yard setback requirements was granted to Harris Enterprises Inc. to allow the construction of a commercial building.

### 73-75 Robinson Street:

- The Planning Commission granted a Special Use Permit to Cliff Thomas in 1997 to operate a car wash.
- M.J.M. Associates was granted an area variance in 1985 to permit an illuminated business sign on the property.

## E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board should be the lead agency to determine any environmental significance related to the use and area variances.

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 EAF Part 2 - Impact Assessment.** The Lead Agency (ZBA) 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 ZBA. When answering the questions the ZBA 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
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Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<b>X</b>	
Will the proposed action result in a change in the use or intensity of use of land?	<b>X</b>	
Will the proposed action impair the character or quality of the existing community?	<b>X</b>	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<b>X</b>	
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?	<b>X</b>	
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?	<b>X</b>	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	<b>X</b>	
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<b>X</b>	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<b>X</b>	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	<b>X</b>	
Will the proposed action create a hazard to environmental resources or human health?	<b>X</b>	

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

## **F. STAFF FINDINGS**

Planning Staff has the following findings:

- 1. The Zoning Board of Appeals must determine whether an undesirable change will be**

**produced in the character of the neighborhood.**

The subject property is located on Robinson Street, an area zoned and used mainly as residential housing. The zoning district adjacent to 55 Robinson Street is zoned I-3 Heavy Industrial. The amount of signage is out of character for the immediate area but not out of character for nearby areas.

- 2. The Zoning Board of Appeals must determine whether the variances requested are substantial.**

The requested variances could be considered substantial because this project needs to comply with the restrictions placed on signage permitted in the residential districts. Signage in the residential districts is limited in order to limit impacts to residential properties.

- 3. The Zoning Board of Appeals must determine whether the requested variances will have an adverse impact on the physical or environmental conditions in the neighborhood or district.**

Staff has some concerns that the proposed illumination of the signs could be a nuisance to nearby residential properties and residents of the community

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

## **G. ENCLOSURES**

Enclosed is a copy of the application, site photographs and sign mock-ups.