



Department of Planning, Housing, & Community Development

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

STAFF REPORT: USE VARIANCE

MEETING DATE: October 7, 2014
PROJECT ADDRESS: 608 Chenango Street
APPLICANT: Daniel Townsend
TAX ID NUMBER: 144.35-1-20
CASE NUMBER: 2014-26
AREA: 195 square feet
ZONING: R-2 One & Two Unit Dwelling District

A. VARIANCE REQUESTED

The applicant has submitted an application for a use variance to establish a hair salon in the applicant's own single-family residence. A personal service business conducted by the occupant of a dwelling which is clearly incidental and secondary to the use of the residence is considered a Major Home Occupation. The property is zoned R-2 Residential One & Two Unit Dwelling District. The establishment of a major home occupation is not permitted in this district, and therefore necessitates a use variance from the Zoning Board of Appeals.

The applicant has proposed a 195 square foot salon, oriented toward the west side of the house on Chenango Street. The salon will operate 4 days a week, from Tuesday to Friday, between the hours of 10:00am - 6:00pm. Deliveries will occur less than once per month, via a standard parcel delivery service. There will be a total of 2 employees serving a projected 6 customers per day.

In granting a **Use Variance**, the Zoning Board of Appeals must find the applicant has adequately demonstrated the following:

- (a). **Economic deprivation**: That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;
- (b). **Unique circumstances**: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character**: That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger public health or safety, or substantially diminish or impair property values in the neighborhood.
- (d). **Self-created hardship**: That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in granting a use 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. STAFF FINDINGS

Planning Staff has the following findings regarding the Use Variance:

1. **The Zoning Board of Appeals must determine that under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question.**
2. **The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.**

If the conditions of a Major Home Occupation are met, there should be no adverse effect on the neighborhood character or its physical and environmental conditions. The applicable conditions are listed in section G of this staff report.

3. **The Zoning Board of Appeals must determine that the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.**
4. **The Zoning Board of Appeals must determine whether or not the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

See finding #2.

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

The hardship was self-created.

C. RECOMMENDED CONDITIONS OF APPROVAL

If the Zoning Board approves the proposed variance Staff recommends the following conditions of approval:

1. **That there be no external alteration of the dwelling that changes the character and appearance thereof as a dwelling**
2. **That deliveries shall not be made before 7:00am or after 9:00pm**
3. **That no more than one person who does not reside in the household be employed by the proposed home occupation**
4. **That no more than two clients be served at one time**
5. **That signage be limited to one non-illuminated wall sign not exceeding one square foot, to be approved by the Planning Department.**

B. SITE REVIEW

The property known as 608 Chenango Street is located on the northwest corner of Chenango Street and Baird Avenue. The 7,000 square foot lot is occupied by a 2-story, 1,778 sq. ft residential building and a 440 sq. ft. garage.

Land use in the vicinity of the site is primarily one-family residential, with a less substantial mix of two- and multi-family structures. There is also a church located in the parcel immediately to the south of the subject site, and several church owned properties in the immediate vicinity.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

604 Chenango Street: In 2003 the Zoning Board of Appeals granted the Community Bible Church area variances to install an illuminated sign.

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **UNLISTED** Action. The Planning Commission may be the lead agency to determine any environmental significance. 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. (See EAS Part 2 & Part 3)

	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?	X	
Will the proposed action result in a change in the use or intensity of use of land?	X	
Will the proposed action impair the character or quality of the existing community?	X	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	
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?	X	
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?	X	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	X	
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	X	

Will the proposed action create a hazard to environmental resources or human health?	X	
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F. COMPREHENSIVE PLAN

The proposal is consistent with the Comprehensive Plan. Recommendation 2.4 in the Land Use & Zoning chapter states that the City should permit home-based businesses in the R-1 and R-2 districts with certain restrictions.

G. ENCLOSURES

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