

**City of Oneida
Planning Commission Zoning Board of Appeals
Meeting Minutes
July 11, 2023**

The regular meeting of the Planning Commission Zoning Board of Appeals was held on Tuesday, July 11, 2023, at 6:00 p.m. in the Basement Activities Room, City Hall, 109 N. Main St. Oneida, NY.

The meeting was called to order at 6:01 pm by Chairman Fred Meyers.

PRESENT: Fred Meyers
Todd Schaal
Perry Tooker
Pat Thorpe
Barbara Henderson

ALSO PRESENT: Christopher Henry, Director of Planning
Jay Ackerman, Code Enforcement Officer
Andrew Bennet, Assistant Fire Marshall
Nadine Bell, City Attorney

Absent: Randy Bonville
Kipp Hicks

RESOLVED, that the Tuesday, June 13, 2023, PCZBA meeting minutes are hereby approved with edits submitted by Barbara Henderson.

Moved by Todd Schaal
Seconded by Barbara Henderson

Aves: 5
Nays: 0

Motion Carried

Item #1 – Sketch Plat Approval, Preliminary Plat Waiver, and Final Plat Approval for a 3-lot minor subdivision at 1691 Fairview Ave, SBL# 46.-1-1, zoned A, by Andrew Coulthart- file #2023-017.

The applicant was in attendance.

Perry Tooker recused himself and left the dais. Fred stated that this subdivision is going through the new two-meeting process.

239 Review- Was determined to not be required.

SEQR- At the 6/13/23 meeting Lead agency was declared, the action was classified as unlisted, and the PCBZA issued a Negative Declaration.

Motion to Open the Public Hearing at 6:03

Moved by Pat Thorpe

Seconded by Barbara Henderson

Ayes: 4

Nays: 0

Motion Carried

No comments were made.

Motion to Close the Public Hearing at 6:04

Moved by Pat Thorpe

Seconded by Barbara Henderson

Ayes: 4

Nays: 0

Motion Carried

A RESOLUTION GRANTING MINOR SUBDIVISION APPROVAL FOR SKETCH PLAT, PRELIMINARY PLAT WAIVER, AND FINAL PLAT APPROVAL FOR A 3-LOT MINOR SUBDIVISION AT 1691 FAIRVIEW AVE, SBL# 46.-1-1, ZONED A, BY APPLICANT ANDREW COULTHART

WHEREAS, the City of Oneida Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Planning Board") has reviewed the application submitted by Andrew Coulthart for a 3-lot minor subdivision at 1691 Fairview Ave, SBL# 46.-1-1, zoned A; and

WHEREAS, the State Environmental Quality Review (SEQR) process was completed on June 13, 2023, and the Planning Board declared lead agency, classified that action as unlisted, and subsequently issued a negative declaration; and

WHEREAS, a public hearing was held by the Planning Board to consider the said application; and

WHEREAS, the Planning Board has reviewed the application and has determined that the proposed subdivision complies with the applicable requirements and regulations; and

WHEREAS, the Board has imposed certain conditions upon the approval of the subdivision application.

NOW, THEREFORE, BE IT RESOLVED by the City of Oneida Joint Zoning Board of Appeals/Planning Commission as follows:

Section 1: Subdivision Approval

The Planning Board hereby approves the Sketch Plat, Preliminary Plat Waiver, and Final Subdivision Plat consisting of sheet L-2 prepared by Tooker Land Surveying, PLLC dated 5/25/23 for Andrew Coulthart for a property located at 1691 Fairview Ave, SBL# 46.-1-1, zoned A.

CONDITIONS:

1. The approved map must be filed with Madison County within 62 days of approval by the City of Oneida Planning Commission Zoning Board of Appeals, consistent with §155-21 of the City of Oneida Subdivision of Land Law.
2. Proof of filing must be submitted to the Director of Planning and Development within 30 days of the filing with the County.
3. That the Director of Planning and Development is hereby authorized to take all necessary administrative actions to implement this approval.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

Dated this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Joint Zoning Board of Appeals/Planning Commission

ATTEST:

Christopher Henry

Director of Planning and Development and, Secretary of the Joint Zoning Board of Appeals/Planning Commission

Moved by: Todd Schaal

Seconded by: Pat Thorpe

Ayes: 4

Nays: 0

Motion Carried

Item #2 – Site Plan Review, and Conditional Use Permit to establish a restaurant and residential use in the former Hotel Oneida, located at 181 Main Street, Tax Map Number 30.80-1-54, zoned DC, by The Oneida Group, LLC, file# 2023-019.

The Applicants Ed Riley and Bob Sullivan were in attendance.

Perry Tooker returned to the dais.

The applicant went floor by floor explaining the project. There was a change from last month related to the mailroom. The banquet area will have roughly 120 to 140 seats. The upper floors will have balcony area access.

Pat Thorpe asked about drop-offs along Lenox Ave and if the road would be altered to allow a car to pull in. Ed Riley answered that New York State would not allow Lenox to be altered and drop-offs could occur at the service area and there will be no parking along Lenox.

There was a discussion about the parking plan, and how there currently is none submitted. It was noted by Nadine Bell that the parking plan is a part of Condition 4. There was further discussion about the parking plan and the Applicant responded that they are asking for a variance on parking to just provide it for the residents. All other parking will be up to the customers and staff. The parking discussion continued related to FEMA property as an alternative. The Applicant stated that they are working through options and noted that they have contacted the State about FEMA property with no conclusion at this time. The applicant explained concerns about acquiring nearby property to address parking, as acquiring a building nearby for parking was not a part of the proforma.

There was a discussion related to building permits. Chairman Meyers and Commissioner Schaal making changing the resolution where no final building permit will be issued until a parking plan was submitted. Chris Henry asked if it would impact the applicant's ability to obtain a demolition permit. Ed Riley interjected that no permits being issued would be fine as his financiers would want that.

Commissioner Henderson made a comment related to communities re-looking at parking requirements. There was a brief discussion related to the topic.

Fred read the 239 Review comments related to the historic sign on the back. The applicant was willing to make it a condition of the approval.

239 Review- returned for local determination with the following Comments:

“The property has a prominent "Hotel Oneida" sign located at the back of the building. Although the renderings did not include an eastern elevation drawing, we are curious about the opportunities for the back of the building including if the applicant will make a new sign similar to the style of the current one.

Overall, this is an exciting reuse of this iconic building and a transformative project for downtown Oneida. No adverse county-wide impact will occur, and we are sending the site plan and special use permit application back for local determination.”

Motion to Open the Public Hearing at 6:26

Moved by Pat Thorpe

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

Motion Carried

Alex Rowe (Forest Ave) – Asked about the total height of the building. There was a discussion with the Applicants, and it was determined to be roughly 50'. There was a brief comment about property ownership and the value of the property. Mr. Rowe wanted to verify ownership over a concern exemplified in Wampsville where the City sold the property and then had to buy it back later at a much higher value. He wanted to ensure the pricing is secured.

Motion to Close the Public Hearing at 6:29

Moved by Pat Thorpe

Seconded by Perry Tooker

Ayes: 5

Nays: 0

Motion Carried

RESOLUTION APPROVING SITE PLANS FOR TO ESTABLISH A RESTAURANT AND RESIDENTIAL USE IN THE FORMER HOTEL ONEIDA, LOCATED AT 181 MAIN STREET, TAX MAP NUMBER 30.80-1-54, ZONED DC, BY THE ONEIDA GROUP, LLC, FILE# 2023-019.

WHEREAS, the applicant, The Oneida Group, LLC (hereinafter referred to as "the Applicant"), has submitted a site plan review and conditional use permit application for The Oneida (hereinafter referred to as "the Project"), located at 181 Main Street, Oneida, NY, to the City of Oneida (hereinafter referred to as "the City") Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Planning Board"); and

WHEREAS, the Planning Board received and placed on file a letter from the Honorable Helen B. Acker, dated June 12, 2023, where the City as the legal owner of the property located along Route 46 directly adjacent to 181 Main Street, Oneida, NY 13421, authorized the submission of the Site Plan Review and Conditional Use Permit Applications for the proposed activities occurring on City property to the Planning Board; and

WHEREAS, the Planning Board has carefully considered the New York State SEQR review, completed on June 13th, 2023, classified the proposed Action as an Unlisted Action and issued a Negative Declaration under SEQR based on the findings that no significant adverse environmental impacts are anticipated; and

WHEREAS, the Planning Board has reviewed the application, conducted public hearings completed on July 11, 2023, and considered the potential impacts and benefits of the proposed development; and

WHEREAS, the GML 239 Referral was received, and was returned for local determination; and

WHEREAS, the Planning Board finds that the proposed development by The Oneida Group, LLC, at 181 Main Street, Oneida, NY, is in compliance with the applicable site plan under §143 of the City Code and is consistent with the goals and objectives of the City's Comprehensive Plan; and

WHEREAS, the Planning Board has determined that the proposed development can be approved with certain conditions to ensure compliance with the site plan review regulations pursuant to §143 and to mitigate potential impacts; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ONEIDA'S JOINT ZONING BOARD OF APPEALS/PLANNING COMMISSION, AS FOLLOWS:

Section 1: Approval of Site Plan

The Planning Board hereby approves the following site plan documents consisting of sheets L1.00; L2.00; L3.00; L4.00; dated 5/25/23; prepared by IN Architects and Keplinger Freeman and Associates for the establishment to establish a restaurant and residential use in the former Hotel Oneida, located at 181 Main Street, Tax Map Number 30.80-1-54, zoned DC, by The Oneida Group, LLC.

Section 2: Conditions of Approval

1. The applicant, The Oneida Group, LLC, shall obtain all required permits and approvals, including ROW work permits from the City Engineer, and NYS DOT, building and sign permits, from the Department of Code Enforcement before commencing any construction or signage installation.
2. Any dumpsters, trash, recycling, or other refuse receptacles associated with the development shall be appropriately screened and covered.
3. A finalized landscaping plan, consistent with §143-18 of the City Code, shall be submitted to and approved by the Director of Planning and Development before any landscaping activities are undertaken any major revisions shall require site plan modification approval.
4. The applicant shall submit a site plan modification application that addresses off-street parking requirements consistent with §190-16 of City Zoning Code as well as any further modifications to this site plan approval. No Certificates of Occupancy, shall be issued without the approved site plan modification addressing parking.

BE IT FURTHER RESOLVED that the Planning Board authorizes the City Department of Planning and Development staff to work with the Applicant to ensure compliance with the approved conditions and to review and approve any minor modifications to the site plan that may arise during the implementation of the project.

BE IT FURTHER RESOLVED that the Director of Planning and Development is hereby directed to provide a copy of this resolution to the Applicant, and any other relevant agencies or departments involved in the review and approval process.

BE IT FURTHER RESOLVED the PCZBA moves to modify the originally circulated resolution approving the Site Plan the adding to Condition 4 under Section 2, adding so it reads that “no certificates of occupancy, or building permits shall be issued...”

BE IT FURTHER RESOLVED The PCZBA moves to modify Section 2 under this approval adding Condition 5 where it reads “The historic sign shall be restored per the county’s 239 review comments”.

PASSED AND ADOPTED this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Planning Board

ATTEST:

Christopher Henry

Director of Planning and Development and Secretary to the Planning Board

Moved by: Pat Thorpe

Seconded by: Perry Tooker

Ayes: 5

Nays: 0

Motion Carried

Item #3 –Area Variances for 9’-7” of side yard, and 3’-6” from the Principal Structure to construct an accessory structure, located at 1699 Union Street, Tax Map Number 47.14-1-37, zoned R-2, by Jonathon Eaton, file# 2023-020.

The Applicant was in attendance.

There was a discussion about whether the structure was up already. The Applicant said that it was. Commissioner Thorpe asked if the City ended up establishing fines for retroactively getting planning approvals. Director Henry explained that fines have not been established.

There was a question about if there was a building permit. CEO Ackerman said there was not. The discussion continued related to the minimum square footage for a building permit. Mr. Ackerman said 144 square feet.

There was a question about why the location was selected when there was adequate space in the back. The applicant explained it is used for power tools to do contracting work and access was difficult in the back. The applicant was asked why it wasn't moved to comply with the 10'. There was a discussion where moving it could result in the structure being in the front yard or into the driveway.

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as a Type II action requiring no further review pursuant to § 617.5.

Moved by Perry Tooker

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

MOTION CARRIED

Motion to Open the Public Hearing at 6:39

Moved by Perry Tooker

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

Motion Carried

No comments were made.

Motion to Close the Public Hearing at 6:19

Moved by Pat Thorpe

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

Motion Carried

Chris went through the five criteria for 9'-7" of side yard, and 3'-6" from the Principal Structure to construct an accessory structure, located at 1699 Union Street, Tax Map Number 47.14-1-37.

- 1.) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of an area variance.

Moved by Pat Thorpe that an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance because it is in his yard and it is a compact yard and there is no other egress.

Seconded by Perry Tooker

Ayes: 5

Nays: 0

Motion Carried

- 2.) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

Moved by Pat Thorpe that the applicant can't achieve the benefit by some other method feasible for the applicant to pursue because he wants to keep it where he can access it, and can't place it in the back.

Seconded by Todd Schaal

Ayes: 5

Nays: 0

Motion Carried

- 3.) Whether the requested area variance is substantial.

Moved by Barbara Henderson that the requested area variance is not substantial because of the number of feet requested.

Seconded by Pat Thorpe

Ayes: 5

Nays: 0

Motion Carried

- 4.) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Moved by Perry Tooker that the proposed variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or district because the shed is keeping with the aesthetic and neighbors don't object.

Seconded by Pat Thorpe

Ayes: 5

Nays: 0

Motion Carried

- 5.) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.

Moved by Barbara Henderson that the difficulty was self-created, but it is relevant, and it does not necessarily preclude the granting of the area variance.

Seconded by Todd Schaal

Ayes: 5

Nays: 0

Motion Carried

RESOLVED, that area variance for 6' side variance for a shed located at 430 Lincoln Ave, Tax Map Number 38.38-1-61, zoned R-2, by Jon Eaton be approved pursuant to Section 190-44, Article B, 2b of the Zoning Ordinance of the City of Oneida.

Moved by Pat Thorpe

Seconded by Todd Schaal

Ayes: 5

Nays: 0

MOTION CARRIED

There was a brief discussion about whether the motion accurately reflected the measurements required. It was determined that the motion did not, and a new vote was taken to adopt the proposed resolution.

A RESOLUTION APPROVING AREA VARIANCES FOR SIDE YARD SETBACKS TO CONSTRUCT AN ACCESSORY STRUCTURE AT 1699 UNION STREET, TAX MAP NUMBER 47.14-1-37, ZONED R-2, BY JONATHON EATON

WHEREAS, the City of Oneida Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Board") has reviewed the application submitted by Jonathon Eaton for area variances to construct an accessory structure at 1699 Union Street, Tax Map Number 47.14-1-37, zoned R-2; and

WHEREAS, the State Environmental Quality Review (SEQR) process was completed on July 11, 2023, and the Planning Board declared lead agency, classifying the action as a Type II action no further review pursuant to § 617.5.; and

WHEREAS, a public hearing was held on July 11th, allowing the public to express their opinions and concerns regarding the proposed area variances; and

WHEREAS, the Board determined that no GML 239 Referral was required; and

WHEREAS, variance relief **will not** produce any undesirable change in the character of the neighborhood and **will not** be a detriment to nearby properties. Variance relief **will not** have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. Neighbors **did not** express any opposition to the variance. There is **no** apparent method to achieve the benefit Applicant wishes to obtain, other than a variance and the benefit to Applicant **does** outweigh any detriment to the neighborhood or community because of granting the variance relief; and

WHEREAS, the Board has imposed certain conditions upon the approval of the area variances.

NOW, THEREFORE, BE IT RESOLVED by the City of Oneida Joint Zoning Board of Appeals/Planning Commission as follows:

That the application submitted by Jonathon Eaton for area variances to allow an Area Variance of 9'-7" to a setback of 5" from the eastern side property line, and 3'-6" of principal structure setback to a setback of 6'6" to construct an accessory structure, located at 1699 Union Street, Tax Map Number 47.14-1-37, zoned R-2, is hereby approved, subject to the conditions outlined below:

CONDITIONS:

1. The Applicant will obtain all required permits and approvals, including a building permit from the Department of Code Enforcement.
2. That the Director of Planning and Development is hereby authorized to take all necessary administrative actions to implement this approval.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

PASSED AND ADOPTED by the City of Oneida's Joint Zoning Board of Appeals/Planning Commission on this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Joint Zoning Board of Appeals/Planning Commission

ATTEST:

Christopher Henry

Director of Planning and Development and, Secretary of the Joint Zoning Board of Appeals/Planning Commission

Moved by: Pat Thorpe

Seconded by: Todd Schaal

Ayes: 5

Nays: 0

Motion Carried

Item #4 –Area Variance for two additional accessory structures located at 1538 Cobb Street, Tax Map Number 29.-2-17, zoned A, by Brock Silliman, file# 2023-021.

The applicant's son Garrett Silliman responded to questions.

There was a brief discussion about the number of existing structures and the use of the structure. Garrett Silliman stated that it will store tools that his father inherited. Commissioner Schaal asked about moveable accessory structures like containers and pods. Jay responded building permits are required for anything that is 144 square feet. There was a discussion about whether the structure becomes taxable. Pat Thorpe stated it does if it stays for a year.

239 Review- Not required.

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as a Type II action requiring no further review pursuant to § 617.5.

Moved by Pat Thorpe

Seconded by Perry Tooker

Ayes: 5

Nays: 0

MOTION CARRIED

Motion to Open the Public Hearing at 6:52

Moved by Pat Thorpe
Seconded by Barbara Henderson

Ayes: 5
Nays: 0

Motion Carried

There was a discussion about whether or not there was a maximum structure limit. Chris and Jay stated there was not. Chris added that the limit is usually related to lot coverage restrictions. There was a question about the location, and the applicant stated that it was behind the home.

Motion to Close the Public Hearing at 6:52

Moved by Pat Thorpe
Seconded by Perry Tooker

Ayes: 5
Nays: 0

Motion Carried

Chris went through the five criteria for 9'-7" of side yard, and 3'-6" from the Principal Structure to construct an accessory structure, located at 1699 Union Street, Tax Map Number 47.14-1-37.

- 1.) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of an area variance.

Moved by Pat Thorpe that an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance because it is behind the house far from the road, people won't be able to see it.

Seconded by Todd Schaal

Ayes: 5
Nays: 0

Motion Carried

- 2.) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

Moved by Pat Thorpe that the applicant can achieve the benefit by some other method feasible for the applicant to pursue but it is the cheapest way.

Seconded by Perry Tooker

Ayes: 5
Nays: 0

Motion Carried

3.) Whether the requested area variance is substantial.

Moved by Perry Tooker that the requested area variance is not substantial because the acreage is sufficient to handle the additional structures.

Seconded by Barbara Henderson

Ayes: 5
Nays: 0

Motion Carried

4.) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Moved by Todd Schaal that the proposed variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or district because it won't be seen.

Seconded by Barbara Henderson

Ayes: 5
Nays: 0

Motion Carried

5.) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.

Moved by Barbara Henderson that the difficulty was self-created, but it is relevant, and it does not necessarily preclude the granting of the area variance.

Seconded by Todd Schaal

Ayes: 5
Nays: 0

Motion Carried

A RESOLUTION APPROVING AREA VARIANCES FOR TWO ADDITIONAL ACCESSORY STRUCTURES AT 1538 COBB STREET, TAX MAP NUMBER 29.-2-17, ZONED A, BY BROCK SILLIMAN.

WHEREAS, the City of Oneida Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Board") has reviewed the application submitted by Brock Silliman for two additional accessory structures located at 1538 Cobb Street, Tax Map Number 29.-2-17, zoned A; and

WHEREAS, the State Environmental Quality Review (SEQR) process was completed on July 11, 2023, and the Planning Board declared lead agency, classifying the action as a Type II action no further review pursuant to § 617.5.; and

WHEREAS, a public hearing was held on July 11th, allowing the public to express their opinions and concerns regarding the proposed area variances; and

WHEREAS, the Board determined that no GML 239 Referral was required; and

WHEREAS, variance relief **will not** produce any undesirable change in the character of the neighborhood and **will not** be a detriment to nearby properties. Variance relief **will not** have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. Neighbors **did not** express any opposition to the variance. There is **an** apparent method to achieve the benefit Applicant wishes to obtain, other than a variance and the benefit to Applicant **does** outweigh any detriment to the neighborhood or community because of granting the variance relief.; and

WHEREAS, the Board has imposed certain conditions upon the approval of the area variances.

NOW, THEREFORE, BE IT RESOLVED by the City of Oneida Joint Zoning Board of Appeals/Planning Commission as follows:

Having considered the standards set forth in §190-44(B)(2)(B) of the City of Oneida Zoning Regulations, the application submitted by Brock Silliman for two additional accessory structures located at 1538 Cobb Street, Tax Map Number 29.-2-17, zoned A; and is hereby approved, subject to the conditions outlined below:

CONDITIONS:

1. The Applicant will obtain all required permits and approvals, to include a building permit from the Department of Code Enforcement.
2. That the Director of Planning and Development is hereby authorized to take all necessary administrative actions to implement this approval.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

PASSED AND ADOPTED by the City of Oneida's Joint Zoning Board of Appeals/Planning Commission on this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Joint Zoning Board of Appeals/Planning Commission

ATTEST:

Christopher Henry

Director of Planning and Development and, Secretary of the Joint Zoning Board of Appeals/Planning Commission

Moved by: Pat Thorpe

Seconded by: Todd Schaal

Motion Carried

Item #5 – Site Plan Review, and Conditional Use Permit to establish a Bakery, located at 508 Lenox Ave, Tax Map Number 38.22-1-16, zoned C, by Leticia Millacet, file# 2023-022.

The applicant was not in attendance.

The Chairman asked if the applicant was in attendance. It was determined she was not. Chris explained the project briefly and stated that Jay spoke with the Water Superintendent, who determined a backflow preventer is necessary for restaurant uses. There was a discussion about whether an application could be approved without the applicant present. It was determined that the PCZBA typically does not. Nadine asked if they wished to open the public hearing, in the event someone signed up to speak. Chris stated that no one signed up.

RESOLVED, that the Planning Commission tables the action to the next meeting or soon thereafter.

Moved by Todd Schaal

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

MOTION CARRIED

Item #6 – Site Plan Modification to allow the construction of EV charging stations, located at NYE Chrysler Dodge Jeep Ram, 1553 Upper Lenox Ave, Tax Map Number 37.-2-9, zoned C, by ChargeSmartEV, file# 2023-023.

Christian Spenciero was present to represent the applicant.

The applicant's representative presented the proposed changes to the property. He explained the utility work to be done, and that EV charging stations are a requirement set by manufacturers for dealers to receive new models. There was a brief discussion about if they will be accessible to the public. Mr. Spenciero stated that they would be.

There was a question about lighting requirements. A brief discussion ensued and there are requirements for safety. Commissioner Tooker asked if there would be signage. Mr. Spenciero responded that there would be "EV Only" signs, but no other physical signs. They would be searchable through the Plugshare platform online.

A question was asked about a fee for charging. Mr. Spenciero said there would be. There was a brief discussion with the City Attorney and the applicant about 24/7 availability. Mr. Spenciero stated that it would be, as it is a requirement of the incentives. Nadine asked if it would be secured after hours. Mr. Spenciero said it would not.

No 239 Review Necessary

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as a Type II action requiring no further review pursuant to § 617.5.

Moved by Todd Schaal
Seconded by Barbara Henderson

Ayes: 5
Nays: 0

MOTION CARRIED

Resolution Approving Site Plan Modification for EV Charging Stations Located at 1553 Upper Lenox Ave at NYE-Chrysler Dodge Jeep Ram

WHEREAS, the applicant, SmartChargeEV (hereinafter referred to as "the Applicant"), has submitted a site plan modification application for EV charging stations (hereinafter referred to as "the Project"), located at 1553 Upper Lenox Ave, Oneida, NY, to the City of Oneida (hereinafter referred to as "the City") Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Planning Board"); and

WHEREAS, the Planning Board has carefully considered the New York State SEQR review, classified the proposed Action as a Type II Action requiring no further review; and

WHEREAS, the GML 239 Referral was determined to not be required;

WHEREAS, the Planning Board finds that the proposed development by SmartChargeEV, 1553 Upper Lenox Ave, Oneida, NY, is in compliance with the applicable development and zoning regulations and is consistent with the goals and objectives of the City Comprehensive Plan; and

WHEREAS, the Planning Board has determined that the proposed development can be approved with certain conditions to ensure compliance with the site plan review regulations pursuant to §143 and to mitigate potential impacts; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ONEIDA'S JOINT ZONING BOARD OF APPEALS/PLANNING COMMISSION, AS FOLLOWS:

Section 1: Approval of the Site Plan Modification

Having considered the standards set forth in §143 of the City of Oneida Site Plan Review Regulations, the Planning Board hereby approves the following site plan documents consisting of 2 sheets; dated 6/22/23; prepared by AEI Consultants and Blew and Associates P.A. for the construction of EV Charging Stations, located at 1553 Upper Lenox Ave, Tax Map Number 37.-2-9, zoned C, by ChargeSmartEV.

Section 2: Conditions of Approval

1. The applicant shall obtain all required permits and approvals, including building and sign permits, from the Department of Code Enforcement before commencing any construction or signage installation.
2. Any dumpsters, trash, recycling, or other refuse receptacles associated with the development shall be appropriately screened and covered.
3. Construction shall be completed within 1 year from the date of this approval.

BE IT FURTHER RESOLVED that the Planning Board authorizes the City Department of Planning and Development staff to work with the Applicant to ensure compliance with the approved conditions and to review and approve any minor modifications to the site plan that may arise during the implementation of the project.

BE IT FURTHER RESOLVED that the Director of Planning and Development is hereby directed to provide a copy of this resolution to the Applicant, and any other relevant agencies or departments involved in the review and approval process.

PASSED AND ADOPTED this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Planning Board

ATTEST:

Christopher Henry

Director of Planning and Development and Secretary to the Planning Board

Moved by: Todd Schaal

Seconded by: Pat Thorpe

Ayes: 5

Nays: 0

Motion Carried

Item #7 – Site Plan Modification to allow the construction of EV charging stations, located at NYE Ford, 1479 Genesee Street, Tax Map Number 37.-3-59.11, zoned C, by ChargeSmartEV, file# 2023-024.

Christian Spenciero was present to represent the applicant.

The applicant's representative presented the proposed changes to the property. Mr. Spenciero stated that they already received approval from National Grid. Mr. Spenciero described that there would be a utility pole on the other side of Genesee Street, a pad mount transformer. The transformer will feed the level 3 charging stations and a stepdown transformer will feed the level 2 charging stations. Mr. Spenciero noted that the underground utility work will be buried underground at a typical depth of 18 inches.

The Chairman asked about the difference between a Level 2 and Level 3 charging station. Mr. Spenciero responded that a level 3 charging station will charge a car in 40 minutes. Level 2 charging stations will take 2.5 to 3 hours. The applicant continued that Ford is requiring this exact package.

Chairman Meyers had a discussion with Codes about building permits for anything inside the building. Jay responded that for anything electrical they will have to pull a permit. Ford is required to exact this exact package by 2026. The project will take 7-10 months to complete, complete by 2024.

No 239 Review Necessary

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as a Type II action requiring no further review pursuant to § 617.5.

Moved by Pat Thorpe
Seconded by Perry Tooker

Ayes: 5
Nays: 0

MOTION CARRIED

RESOLUTION APPROVING A SITE PLAN MODIFICATION TO ALLOW THE CONSTRUCTION OF EV CHARGING STATIONS, LOCATED AT NYE FORD, 1479 GENESEE STREET, TAX MAP NUMBER 37.-3-59.11, ZONED C, BY CHARGESMARTEV

WHEREAS, the applicant, SmartChargeEV (hereinafter referred to as "the Applicant"), has submitted a site plan modification application for EV charging stations (hereinafter referred to as "the Project"), located at 1479 Genesee Street, Oneida, NY, to the City of Oneida (hereinafter referred to as "the City") Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Planning Board"); and

WHEREAS, the Planning Board has carefully considered the New York State SEQR review, classified the proposed Action as a Type II Action requiring no further review; and

WHEREAS, the GML 239 Referral was determined to not be required;

WHEREAS, the Planning Board finds that the proposed development by SmartChargeEV, 1479 Genesee Street Oneida, NY, is in compliance with the applicable development and zoning regulations and is consistent with the goals and objectives of the City Comprehensive Plan; and

WHEREAS, the Planning Board has determined that the proposed development can be approved with certain conditions to ensure compliance with the site plan review regulations pursuant to §143 and to mitigate potential impacts; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ONEIDA'S JOINT ZONING BOARD OF APPEALS/PLANNING COMMISSION, AS FOLLOWS:

Section 1: Approval of the Site Plan Modification

Having considered the standards set forth in §143 of the City of Oneida Site Plan Review Regulations, the Planning Board hereby approves the following site plan documents consisting of 2 sheets; dated 6/22/23; prepared by AEI Consultants and Blew and Associates P.A. for the construction of EV Charging Stations, located at 1479 Genesee Street, Tax Map Number 37.-3-59.11, zoned C, by ChargeSmartEV with conditions.

Section 2: Conditions of Approval

1. The applicant shall obtain all required permits and approvals, including building and sign permits, from the Department of Code Enforcement before commencing any construction or signage installation.
2. Any dumpsters, trash, recycling, or other refuse receptacles associated with the development shall be appropriately screened and covered.
3. Construction shall be completed within 1 year from the date of this approval.

BE IT FURTHER RESOLVED that the Planning Board authorizes the City Department of Planning and Development staff to work with the Applicant to ensure compliance with the approved conditions and to review and approve any minor modifications to the site plan that may arise during the implementation of the project.

BE IT FURTHER RESOLVED that the Director of Planning and Development is hereby directed to provide a copy of this resolution to the Applicant, and any other relevant agencies or departments involved in the review and approval process.

PASSED AND ADOPTED this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Planning Board

ATTEST:

Christopher Henry

Director of Planning and Development and Secretary to the Planning Board

Moved by: Todd Schaal

Seconded by: Barbara Henderson

Ayes: 5

Nays: 0

MOTION CARRIED

Item #8 – Site Plan Modification to allow the construction of EV charging stations, located at NYE GMC, 1421 Genesee Street, Tax Map Number 37.-3-60, zoned C, by ChargeSmartEV, file# 2023-025.

Christian Spenciero was present to represent the applicant.

The applicant's representative presented the proposed changes to the property and the location is two doors down. This is the same package as item 6. National Grid agreed to the utility pole installation. 2 DC fast chargers will be installed, and it is a requirement of GMC. Ford requires more. Mr. Spenciero said level 2 chargers will be inside. There was a discussion about the connection type. Mr. Spenciero answered that they are universal, if there is a Tesla you have an adaptor.

No 239 Review Necessary

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as a Type II action requiring no further review pursuant to § 617.5.

**Moved by Pat Thorpe
Seconded by Perry Tooker**

**Ayes: 5
Nays: 0**

MOTION CARRIED

RESOLUTION APPROVING A SITE PLAN MODIFICATION TO ALLOW THE CONSTRUCTION OF EV CHARGING STATIONS, LOCATED AT NYE GMC, 1421 GENESEE STREET, TAX MAP NUMBER 37.-3-60, ZONED C, BY CHARGESMARTEV

WHEREAS, the applicant, SmartChargeEV (hereinafter referred to as "the Applicant"), has submitted a site plan modification application for EV charging stations (hereinafter referred to as "the Project"), located at 1421 Genesee Street, Oneida, NY, to the City of Oneida (hereinafter referred to as "the City") Joint Zoning Board of Appeals/Planning Commission (hereinafter referred to as "the Planning Board"); and

WHEREAS, the Planning Board has carefully considered the New York State SEQR review, classified the proposed Action as a Type II Action requiring no further review; and

WHEREAS, the GML 239 Referral was determined to not be required;

WHEREAS, the Planning Board finds that the proposed development by SmartChargeEV, 1421 Genesee Street Oneida, NY, is in compliance with the applicable development and zoning regulations and is consistent with the goals and objectives of the City Comprehensive Plan; and

WHEREAS, the Planning Board has determined that the proposed development can be approved with certain conditions to ensure compliance with the site plan review regulations pursuant to §143 and to mitigate potential impacts; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ONEIDA'S JOINT ZONING BOARD OF APPEALS/PLANNING COMMISSION, AS FOLLOWS:

Section 1: Approval of the Site Plan Modification

Having considered the standards set forth in §143 of the City of Oneida Site Plan Review Regulations, the Planning Board hereby approves the following site plan documents consisting of 2 sheets; dated 6/22/23; prepared by AEI Consultants and Blew and Associates P.A. for the construction of EV Charging Stations, located at 1421 Genesee Street, Tax Map Number 37.-3-60, zoned C, by ChargeSmartEV with conditions.

Section 2: Conditions of Approval

1. The applicant shall obtain all required permits and approvals, including building and sign permits, from the Department of Code Enforcement before commencing any construction or signage installation.
2. Any dumpsters, trash, recycling, or other refuse receptacles associated with the development shall be appropriately screened and covered.
3. Construction shall be completed within 1 year from the date of this approval.

BE IT FURTHER RESOLVED that the Planning Board authorizes the City Department of Planning and Development staff to work with the Applicant to ensure compliance with the approved conditions and to review and approve any minor modifications to the site plan that may arise during the implementation of the project.

BE IT FURTHER RESOLVED that the Director of Planning and Development is hereby directed to provide a copy of this resolution to the Applicant, and any other relevant agencies or departments involved in the review and approval process.

PASSED AND ADOPTED this 11th day of July, 2023.

Fredrick Meyers

Chairperson, Planning Board

ATTEST:

Christopher Henry

Director of Planning and Development and Secretary to the Planning Board

Moved by: Todd Schaal

Seconded by: Perry Tooker

Ayes: 5

Nays: 0

MOTION CARRIED

Item #9 – Site Plan Review, Conditional Use Permit, And Area Variance for 110 feet of height to establish a Wind Energy Conversion System (WECS) located at Brewer Road, Tax Map Number 46.-2-42.3, zoned A, by New Leaf Energy, file# 2023-008/009.

The applicant was in attendance. Brandon Smith (New Leaf Energy), Cammie Jarrel (GHD), and Dave Strong (New Leaf Energy).

There was a brief discussion with Chairman Fred Meyers, and Director of Planning Chris Henry about the conduct of the public hearing. It was agreed that each person would be allowed 3 minutes with the applicant being able to respond at the end.

Chris read aloud the comments from the Planning and Development Department related to the "Host Community Benefit Agreement". Chris stated that the agreement is still with the City Attorney and the Mayor to review. The proposed payment to the city could be a \$369,601 lump sum Community Benefit fee or it could be \$30,000/year at a 2% escalator for 20 years. Chris also noted that he calculated the minimum setbacks for the project. At the proposed height, the setbacks are 840' (560' x 1.5). If the height changes, the setbacks will change with it. Chris then directed the applicant to begin their presentation.

Dave Strong started with an introduction of his team. The applicant defined community wind. He detailed that it is not a wind farm, and the electricity is distributed locally. Mr. Strong noted that there will be 10% discounted electricity to the local community.

The applicant went on to provide a background on New Leaf Energy (NLE) and how it is owned by a private equity fund named Energy Capitol Partners, where more of its financing comes from mature industries. NLE is the developer, and they get projects through the approval process, and ready to build. They will obtain financing for the project, and NLE will not be the long-term owner. Ultimately it will be owned by a larger entity that handles these types of assets.

The applicant went on to describe projects that are more familiar to the public than are located in Fenner. Fenner turbines are 250 ft tall with blades 80-100 ft. The tip of the blade sticking up is 350 ft. Those turbines were built in 2003ish. Dave Strong went on and described the evolution of wind technology to become more efficient. Wind turbine design evolved in 10-year increments roughly. Little Falls was built around 2015 and the turbines are in a range of 420-450 ft. 10 years later, now towers are 375 ft to 400+

ft, and 650 ft turbines are being built today. Bluestone Wind in Broome County, a project south of Buffalo. 650' turbines are what are available today.

Mr. Strong went on to explain that there is an allowable use for wind turbines in the City of Oneida, but the tip height is 450 ft maximum. He explained that getting a turbine under the current standard as being like getting an old cell phone. They would have to acquire a used turbine that isn't as efficient, and they do not use old, or reused wind turbines. He further explained that those turbines wouldn't be viable as a community project. Mr. Strong explained that they are asking for a variance to have a turbine that is 560 ft. He explained that they are looking for the minimum necessary and that the tower height is not much higher than past models. The current tower height is 390 ft. He explained that the length is due to technological advances with the blades. They are recyclable, much lighter, and much longer.

Mr. Strong presented that they don't have or need any state subsidies, none are available, not even through NYSEDA. There is a federal tax credit they will be using. Mr. Strong then turned the presentation over to Brandon Smith.

Brandon Smith explained that they have worked with SHPO, and there are no sight line impacts from historical buildings, after conducting a sight line study. He went on to explain that there are no wetlands on the site, and how they coordinated with the DEC in Albany's main office. They will stop the operation of the turbine to curtail impacts on bat activity, primarily on warm summer nights. Mr. Smith went on to explain, that they originally proposed a 620 ft tip height project but changed it to a 560 ft tip height after the City passed its local law. He described that it is the lowest they could go.

Mr. Smith also addressed the public feedback received about wells and that they propose conditions above the normal standard. He explained that the industry standard for impact monitoring is 2000 ft. They are proposing a 4000 ft radius of voluntary pre and post-impact monitoring of wells for the construction of the foundation. Mr. Smith went on to explain that if there is an impact property owners will be made whole. They must look at the geology and see if any blasting will be needed. Mr. Smith also referenced a submission to the board that addressed the arguments for an area variance. MR. Smith then turned the presentation over to Cammie Jarrel (GHD).

Ms. Jarrel noted that her company is the civil engineer for the project. She went on to describe the layout. The site layout has a gravel access road from Forest Ave that weaves to minimize impacts to trees. They are proposing a gravel pad used to locate a crane for the construction of the turbine. She stated that the foundation is completely underground. There will be a temporary loop road, blade lay down area, stockpile area, and worker vehicle area, during construction only.

Ms. Jarrel went on to describe the setbacks. They are roughly 846-850 ft setback from property line, and 2000 ft from adjacent homes. The setback is 1.5x in height. The Chairman asked why heights keep increasing. Mr. Strong responded that it is the best way to get more efficiency. It helps to get above the trees. Trees cause turbulence, you get cleaner wind above the trees. He described the incorporation of carbon fiber materials into the development of blades making them lighter, longer, and more flexible. He also went on to describe the evolution related to rotations per minute (RPM). The more output per turbine, you can have fewer turbines and less sound impact. Fenner Turbines' RPMs are roughly 20. Newer turbines are slower at 8 rpm. He also stated that the wind farm in Clinton County is a great place to observe the evolution of wind.

The applicant was asked about the actual total height, as their application says "up to". Mr. Strong responded that like solar projects, final specifications are not determined until financing. It is why their reports and studies cite multiple models. He went on to explain three different manufacturers, GE (American Company), Vestas (Dutch Company), and Vensys (German Company). All 3 of those manufacturers make models that are in the 550 to 560 ft range. They are all similar heights. During the discussion, the acronym OEM was defined as the "Original Equipment Manufacturer". Mr. Strong noted that is extremely important to get equipment from an OEM to get a warranty.

The applicants were asked, "What if we don't approve the variance and you have to stick with 450 ft?" Mr. Strong stated there would be no project. You would have to buy a used turbine from overseas. Noone from NLE would be affiliated with a used turbine. They are going as low as they can.

Nadine Bell asked if there will be battery storage for electricity generated. Mr. Strong said, "No battery storage". NLE was asked how it was designed to fall. Mr. Strong responded, "It is designed to stay up." They aren't designed to fall in a certain way. The ones that have fallen, the blades hit the tower, and the tower buckles and folds. There have been a few that fell like a tree. That is where they got the 1.5x setback. The public service commission did a deep investigation of the tower falls and that is where the 1.1x setback. The City of Oneida's is 1.5 times the height setback from the property line. The project does meet that setback.

Nadine asked more about the decommissioning plan, "what is the industry standard for replacing and removing? Under what circumstances?" A year or more with no plan to replace it. We intend to put up a bond for decommissioning fully, and the City of Oneida code is the bond must increase to keep up with inflation to keep up with construction. Parts are replaced as they wear, for bearings, and gearbox, and those will extend the life to 20 to 30 years. Europe has some up 40 years. Typically, you replace bearings and inspect them every 6 months or 12 months, they can operate for decades. There's not a great economic justification to replace a functioning turbine. Mr. Smith added the operator would decommission it without touching the bond. The bond is there in case the operator doesn't do it, then the city can use the bond to take it down.

Chairman Meyers asked if the blades ever break. Mr. Strong said they do. There is a five-year inspection schedule using drones where the rotor is paused. They are repaired and the equipment manufacturer replaces them. The OEM provides service plans.

239 Review- It was retuned for local determination with some comments.

"1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance?

2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

3. Is the requested area variance substantial?

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the

neighborhood or district?

5. Is the alleged difficulty for the applicant self-created?

The City's wind ordinance allows wind turbines of up to 450 feet, which would mean this project requires a variance of 110 feet. That is a substantial deviation from the allowed height and if the City grants such a variance, it would be important to document the reasons why and it might be worth revisiting the criteria that went into determining those height regulations initially.

Could a wind turbine that meets the City's Code be placed here? The City's wind ordinance requires a visual impact analysis (one was not included with the project materials that we received) and we feel this would go a long way toward answering some of the height and visibility questions on this project that tie directly back to the variance request.

Lastly, the applicant indicated that the specific wind turbine model has not been picked out at the time of filling out the application. Given this information, there are specific documents that have not yet been provided as per the Zoning Code.

requirements:

- 1) Detailed turbine drawings depicting the wind turbine, tower, foundation, etc. 190-26.2, E, 1, a, 7.
- 2) GE provided general ice throw and blade throw information. However, based on the information, we did not see any reports from a NY state professional engineer calculating the maximum distance of ice throw and blade throw 190-26.2, E, 1, a, 10-11.
- 3) Catastrophic tower failure information from the manufacturer 190-26.2, E, 1, a, 12.
- 4) A lighting plan detailing all lighting that will be required for the turbine 190-26.2,2, e, 1.

The City may want to indicate that the site plan is approved based on the condition of receiving this information.

The area variance, special-use permit, and site plan for the single wind turbine will have no county-wide impact sending the application back for local review."

Motion to Open the Public Hearing at 7:53 p.m.

Moved by Todd Schaal

Seconded by Pat Thorpe

Ayes: 5

Nays: 0

Motion Carried

Director Henry began using the public hearing sign-up sheet where each person is granted 3 minutes. Patrick Starke owner of the property made comments after his wife Nancy gave him her time. The owner expressed appreciation for the PCZBA and public comments. He explained that he purchased the property in 1997. He stated that they were going to build, but snow and the Labor Day storm prevented them from building. He explained his support of renewable energy and his concerns over climate change. He noted Denmark's ability to have 40% of its power from wind energy, and this project has the potential to power 1,400 homes. He described this project as the City's opportunity to support clean energy. The project is half a mile away from Forest Ave, and about 2,000 feet from neighboring properties. Neighboring properties won't be able to hear it smell. His goal is to leave a legacy to his family.

Gail Hood requested to go further down the line as did Pam Spader Noll. She further commented that her concerns in her e-mail and if they would be addressed. Director Henry said the concerns were forwarded along and the applicant can address her concerns at the end. Mr. Henry stated that the Fire Department commented during the last meeting about fire response and that they would not be able to respond to a fire-up tower and would just control it from spreading.

Connie Burleson asked, "Would you want this in your backyard?"

Tom Griffith commented on the number of houses and concerns over property value impacts. He expressed concerns over the impacts on the reservoir. Mr. Griffith went on to express his concerns over the impacts on wells, radon contamination, and fracture rock. He believes monitors won't handle it. He feels that the PCZBA should table the action and force the applicant to get the Town of Lincoln's approval. They need to handle issues. Mr. Griffith stated that the money benefit would be a 50/50 split between the City and the Town of Lincoln. He went on to say there needs to be a plan for fire and equipment staging.

Jim Seaman started his 3 minutes believing that his concerns were probably been addressed. He asked if being made whole meant, drilling a new well. Mr. Strong said yes. He asked if the variance will be approved no matter what. He said the \$300,000 or \$30,000 doesn't make much of a difference. He asked if the variance would go through no matter what and this is only an opportunity to voice concerns. He pays 1/3 of the amount in taxes. The Chairman stated the money is dealt with by the Council, not the PCZBA.

Mike Evans expressed his concerns over aesthetics and the water. He described a pipeline that was installed and there wasn't water for cows due to the shale rock new wells may not work. He concluded that the residents would pay \$300,000 to stop the project, and this is wrong and shameful. He conceded the rest of his time to his father-in-law John Bortle.

John Bortle provided context to the pipeline statement made by Mr. Evans. He said they were paid \$1,800 and water hasn't been available since the late '50s. He understands the landowner and why he is doing it. He expressed concerns that the project will go to an unknown entity. Mr. Bortle asked, who will be liable, the unknown entity, or the City. He also asked if the Bond will be permanent or renewable. Mr. Bortle stated that if the fractured shale is impacted it will require a pumping station to bring water to the area. He asked that the applicant look around the site for a place you do not have to blast.

Charlotte Evans commented that she stands to inherit her grandfather John Bortle's property. She views any area of her property as an opportunity to build a house. She conceded her time to John Bortle. Mr. Bortle continued who would ultimately be responsible for the water. Living on the hill you protect water.

He stated that it could be avoided by checking the 155 acres for a site that you would not have to blast. Is the City responsible if the variance is granted?

Dave Johnson stated that he has the same concerns and concedes the rest of his time to Tom Griffith. Mr. Griffith stated that he built a subdivision on Crescent, and explained there is a vein of pea gravel that will hold water for days. He stated that there are properties nearby he wants to develop for his family and the PCZBA needs to think hard about the project.

Travis Phillips a representative of Labor Local 190. His union built the Little Falls. He explained his research would be a good economic development opportunity and the applicant has gone above and beyond the normal for well monitoring. He went further by saying many of the concerns have been addressed by the applicant and will be continued to be addressed. He went on with the increasing presence of renewable energy.

Mary Jo Donaldson explained that 30 years ago she lost water for 30 days. Her experience makes her believe that blasting will be necessary because minor landscaping for tree installation requires a backhoe, and she will not live in this area without water.

John Donaldson voiced his concerns over the roads being able to handle the construction, how property values will be affected, and the potential noise impacts on his property.

Gail Hood voiced concerns about the water and how it will drain on her property. She was concerned about the noise at 50 decibels. She went forth explaining concerns over property values, and that tax-paying property owners' wishes be heard.

Chairman Meyers granted those who didn't sign up a chance to speak.

Alex Rowe described his property on the other side of the entrance and the fracturing prevented him from building a driveway. He highlighted where the fracturing occurs. Alex Rowe referenced his Hotel Oneida comment. He went further stating that the height would be the same as 11 Hotel Oneida's being stacked on top of each other. He explained that he can see the Fenner Wind farm and doesn't mind seeing it, but by disturbing fractured limestone you lose water. Charlene Rowe conceded her time. Mr. Rowe commented on the radar site and the proximity of the project to it.

Robert Coapman (Forest Ave) started by saying that he lives across from Alex Rowe. He agrees with concerns over the water. He commented on the very localized topography. Mr. Coapman wishes to see geological and hydrological studies. He also desires to see a long-term plan to address well issues by the applicant when after 6 months their wells dry up when the disturbed limestone fills in their wells. He hopes for a year or 18-month plan in place.

Councilperson Jim Szczerba spoke asking the owner, and Labor rep where they live. The land should not be scarred by the project. He continued stating that he is sympathetic to his constituents and that the project is wrong and should be voted down.

The applicant was directed to answer. Mr. Strong stated that everything said is on the public record and everything is documented in the permit. Every owner, and operator moving forward has to abide by that permit otherwise they are subject to fines. No different than any other commercial property owner. Any promise made by the applicant has to be complied with by future owners. They welcome conditions of

the approval to help residents get comfortable with the approval of the project. He then turned it over to Brandon Smith to address well-monitoring protocols.

Mr. Smith explained the process. Blasting contractors will be NYS certified. A blasting plan will be developed and submitted to the city. They will outline the well-testing methodology and provide blasting notices. Notices will contain contact information, how to sign up for good monitoring, when the blasting will be used, and access methodologies. There will be three tests of the well pre-blast, and then testing after the blast. Three months after the tests if the well owner notices anything, they will be made whole. Mr. Smith stated the term is general because it can mean something different for each well.

Chairman Meyers and an audience member commented that three months does not take you through all the seasons. There was a discussion with Mr. Bortle if the water ever came back after the pipeline installation, and Mr. Bortle said it did not.

The Chairman addressed the crowd stating that he understands there are issues and concerns with the water. There was a discussion about providing public water. Mr. Strong said the full intention is to make sure the community is protected, and no one will lose water. He acknowledges there is a risk. Mr. Strong stated that they will truck water in or build a reservoir. There was a back and forth between the board about providing water to residents if a well could not be re-drilled. There was a further discussion about bonding for potentially bringing city water up to residents. Brandon Smith stated that bonding for the worst-case scenario isn't done. The most important thing is to get information from the geo-tech engineer, and the foundation engineer to ensure there are no impacts. Any condition will obligate the future owner.

There was a discussion between Nadine Bell and the applicant team about the necessary reports to determine subsurface impacts. It was determined that a geotechnical report and OEM specifications with a structural engineer will provide the necessary information. The City Attorney asked if a condition of the approval would be reasonable if it required a structural engineer to provide documentation that asserts that the OEM specifications would work based on the information provided within the geotechnical report. The applicant, Brandon Smith, responded yes. It was further discussed and determined that the condition would have to be satisfied before a building permit was issued.

Ms. Bell addressed the audience regarding land use approvals. She stated that within the State of New York and most of the continental U.S., land use approvals run with the land. Any owner of the property would have to comply with the conditions set by the PCZBA. There was a discussion with Ms. Bell and Mr. Griffith about the application of conditions on land use approvals. It resulted in the City Attorney saying without satisfying all the conditions, there is no approval.

Charlotte Evans asked the City Attorney, who they would file legal action against if there is an issue. The City Attorney responded that the City is not liable.

There was further discussion related to land lease agreements being reviewed by the City before approval. Ms. Bell conveyed that the City does not have the right, it is private information.

Mr. Strong asked for additional information and clarified what goes into the construction of a foundation. He drew out a diagram where they will dig 12 feet deep and then backfill over it. The applicant outlined that the subgrade is likely suitable for the foundation at 12 feet. Mr. Strong stated that they will chip if possible but may have to blast. The question is, is the condition reasonable for what is likely at the site? John Bortle, asked, why have to blast at all, look to where you don't have to blast. Mr. Strong responded

that it is due to setbacks. There was a back and forth between Mr. Bortle and Dave Strong about requesting property line variances to find a location where blasting isn't necessary. Mr. Strong ultimately stated that moving closer to property lines means moving closer to homes, which they want to avoid.

Mr. Evans stated that his hope is that the PCZBA considers those who do not want the project. He thanked Councilor Szczerba for speaking.

The Chairman asked about the bond amount. There was an explanation by the City Attorney about bonds. Bonds do not last forever. She explained that at least 30 days before bond expiration the City requests the applicant or project owner for a renewal of the bond, and if there is no response the City will notify the parties that the current security money, we have will be used to secure the security the city needs, and they are obligated. Bonds range from 1, 2, to 5 years. The longer the term of the bond, it may not be worth it. Two years is typical.

There was a discussion about documents that were submitted to Madison County Planning that resulted in their comments. The line-of-sight drawings were submitted to Madison County Planning, but they did not see them. This led to a discussion about FAA lighting requirements, and they determine how it will be illuminated. Cammie Jarrell said it is typically illuminated with a red light if they require it.

Fred Meyers asked about road repair. There was a discussion about the agreements with DOT for road use and repair.

The Chairman asked Mr. Griffith about the pea gravel comment. The discussion was to get an understanding of the potential impacts. Mr. Griffith responded that the subsurface impacts would have the water go towards the pea gravel, and not towards Forest Ave. Commissioner Thorpe asked if there would be a water table survey, and it was determined that the geotechnical study will handle it. Chairman Meyers commented that this isn't a large impervious surface project, it is mostly pervious. Mr. Griffith responded that the subsurface for the foundation would change, because of the water being held in the shale rock. The main concern is any change would adversely impact the water table.

The Chairman acknowledged the emails that were sent that supported the project. The submitters don't live in Oneida, but they are being placed on file.

There was a discussion about the noise report with the public. The applicant stated that the project complies with the existing City law. The noise level is not very loud. Fred Meyers addressed the crowd to propose the public hearing remain open.

Motion to leave the Public Hearing open until the next meeting at 9:15 p.m.

Moved by Pat Thorpe

Seconded by Barbara Henderson

Ayes: 5

Nays: 0

Motion Carried

Nadine Bell provided information about the project approvals required. She noted that there are three approvals. They need an Area Variance approval, Site Plan approval, and Conditional Use Permit also known as a Special Use permit. She described the authority of the PCZBA. The PCZBA is limited by the legislation made by the Common Council. Site Plan approval is a check-the-box type of approval. The City's code sets the terms and conditions for granting a Conditional Use permit. If all the criteria are satisfied, then a Conditional Use Permit has to be approved. They require scientific evidence to deny, and not generalized concerns. Related to Area Variances, the PCZBA has more discretionary authority. Ms. Bell commented that the PCZBA is unique compared to other municipalities, where they vote on the balancing test criteria.

There was a question from the audience about if one of the balancing tests isn't approved, will it be denied? Ms. Bell said no but if three out of five it is more difficult to justify an approval. Ms. Bell went on to say that the applicant has the burden of proof, and this board is now reviewing that information and using this analysis.

There was a question about SEQR. SEQR was already completed, and Ms. Bell said there is case law that says SEQR must be completed before the public hearing. She went on further to explain SEQR and the PCZBA must take the "Hard Look". She went on to define "adverse impact" definitions. Chairman Meyers stated, without the area variance, this would have to be approved. The public hearing helps with the setting conditions in the Conditional Use Permit. Ms. Bell went further, explained the Article 78 Challenge process, and how it is available to the applicant and the public. She went on to explain the standard of review. She described the Supreme Court has to determine if the action is arbitrary, capricious, or illegal. She explained that conditions have to be "reasonable". She then clarified the term further. Decisions must be reasonable and rational regardless of who files a challenge.

There was a question about the FAA approvals and their relationship to SEQR. Nadine stated that it is just an additional regulatory approval. Mr. Griffith asked if the Air Force is aware. The Board said, yes, through the FAA.

RESOLVED, that there being no further business to be brought before the PCZBA, the meeting is hereby adjourned.

Moved by Barbara Henderson
Seconded by Perry Tooker

Ayes: 5
Nays: 0

MOTION CARRIED

The meeting adjourned at 9:28 p.m.