

**City of Oneida
Planning Commission Zoning Board of Appeals
Meeting Minutes
February 14, 2023**

The regular meeting of the Planning Commission Zoning Board of Appeals was held on Tuesday, February 14, 2023, at 6:00 p.m. in the Common Council Chambers, 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
Randy Bonville
Pat Thorpe
Perry Tooker

ALSO PRESENT: Christopher Henry, Director of Planning
Jay Ackerman, ZEO
Brian Burkle, Fire Marshall

Absent: Barbara Henderson
Kipp Hicks

AMENDMENT RESOLVED, that the Tuesday, January 10, 2023, PCZBA meeting minutes are hereby approved with the modification from Pat Thorpe regarding a second that should have been Barb Henderson.

**Moved by Randy Bonville
Seconded by Pat Thorpe**

**Aves: 5
Nays: 0**

Motion Carried

Item #1- Site Plan Review and Conditional Use Permit to establish a church and religious institution located at 220 Broad Street, zoned R-3, Tax Map Number 38.24-1-12, by New York Conference of Seventh-day Adventists, file# 2022-043.

Applicant was in attendance.

There was a brief overview of the project with the applicant.

239 Review- Not required

SEQRA

Chris Henry relayed comments from Barbara Henderson about question 20 of the SEAF in regards it being checked as “Yes”. It shows yes as the Mapper uses a 2,000 foot buffer. There are a few sites within that buffer, but nothing on or adjacent to. The DECinfo Locator and the Environmental Remediation database were used to verify that there is nothing nearby nor on the parcel.

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as Unlisted.

Moved by Pat Thorpe

Seconded by Randy Bonville

Ayes: 5

Nays: 0

MOTION CARRIED

The PCZBA discussed Part I and completed Part 2 of the Short EAF, and made a determination that there are no adverse effects associated with this project.

RESOLVED, that the PCZBA issues a Negative Declaration under SEQRA.

Moved by Pat Thorpe

Seconded by Randy Bonville

Ayes: 5

Nays: 0

Motion Carried

Motion to Open the Public Hearing at 6:11

Moved by Pat Thorpe

Seconded by Todd Schaal

Ayes: 5

Nays: 0

Motion Carried

No Discussion

Motion to Close Public Hearing at 6:12

Moved by Pat Thorpe

Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

RESOLVED, that the Conditional Use Permit to establish a church and religious institution located at 220 Broad Street, zoned R-3, Tax Map Number 38.24-1-12, by New York Conference of Seventh-day Adventists, file# 2022-043 be approved pursuant to Section 190-44, Article B, 2b of the Zoning Ordinance of the City of Oneida with the following conditions:

- 1) Hours of Operation 8:00 a.m. to 7:00 p.m.

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

RESOLVED, that the Site Plan to establish a church and religious institution located at 220 Broad Street, zoned R-3, Tax Map Number 38.24-1-12, by New York Conference of Seventh-day Adventists, file# 2022-043 be approved pursuant to Section 190-44, Article B, 2b of the Zoning Ordinance of the City of Oneida with the following conditions:

- 1) Applicant will obtain all required permits and approvals, to include building permit and sign permit;
- 2) The application for a building permit must be accompanied by all completed water permit applications (to include all plans, specifications and submittals) required by the City of Oneida and New York State Health Department; further, all water service applications must be found to be complete and correct before a building permit is issued;
- 3) A key box must be installed on the building if one does not already exist;
- 4) All dumpsters, and refuse receptacles are to be covered and screened;
- 5) Installation of a backflow prevention device;
- 6) Any construction must be completed by February 29, 2024.

Moved by Todd Schaal
Seconded by Pat Thorpe

Ayes: 5
Nays: 0

MOTION CARRIED

Item #2 – Area Variance for 3-feet of height for a maximum height of 21 feet to allow placement of an accessory structure located at 2043 Middle Rd, zoned Ag, Tax Map Number 47-1-65, by Thomas Visalli file# 2023-001.

Applicant was not in attendance.

Jay Ackerman provided information that the property is located in the outer district. It meets all other setbacks and development standards. The height is requested to match the aesthetic of existing buildings.

239 Review – Not required.

Resolved that the proposed action is a Type II action that requires no further review as it is an area variance for a residence and is listed under 6 CRR-NY 617.5.

**Moved by Pat Thorpe
Seconded by Randy Bonville**

**Ayes: 5
Nays: 0**

Motion Carried

Motion to Open the Public Hearing at 6:19

**Moved by Pat Thorpe
Seconded by Randy Bonville**

**Ayes: 5
Nays: 0**

Motion Carried

Motion to Close the Public Hearing at 6:20

**Moved by Pat Thorpe
Seconded by Randy Bonville**

**Ayes: 5
Nays: 0**

Motion Carried

Chris went through the five criteria for an area variance for 3-feet of height for a maximum height of 21 feet to allow placement of an accessory structure located at 2043 Middle Rd, zoned Ag.

- 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 similar to other properties in the outer district.

Seconded by Randy Bonville

Ayes: 5
Nays: 0

- 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 due to the height and pitch of the building.

Seconded by Randy Bonville

Ayes: 5
Nays: 0

- 3) Whether the requested area variance is substantial.

Moved by Pat Thorpe that the requested area variance is not substantial because the 3' feet in the outside district will not be noticed.

Seconded by Randy Bonville

Ayes: 5
Nays: 0

- 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 is just a roof.

Seconded by Perry Tooker

Ayes: 5
Nays: 0

- 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 Todd Schaal that the difficulty was self-created, but it is relevant, and it does not necessarily preclude what is being asked for from being granted.

Seconded by Perry Tooker

Ayes: 5

Nays: 0

RESOLVED, that the area variance for 3-feet of height for a maximum height of 21 feet to allow placement of an accessory structure located at 2043 Middle Rd, zoned Ag, Tax Map Number 47-1-65, by Thomas Visalli file# 2023-001 be approved pursuant to Section 190-44, Article B, 2b of the Zoning Ordinance of the City of Oneida with the following condition:

- 1) Applicant will obtain all required permits and approvals, to include building permit

Moved by Randy Bonville

Seconded by Pat Thorpe

Ayes: 5

Nays: 0

MOTION CARRIED

Item #3 – Conditional Use Permit to re-establish a bar/restaurant located at 1542 N. Lake Street, zoned R-2, Tax Map Number 30.5-1-1, by Valerie Long file# 2023-002.

The Applicant was in attendance.

The applicant and Chris Henry explained the reason that construction delays caused them to miss the deadline originally set by the PCZBA on 12/16/21.

239 Review- Not required.

SEQRA- Resolved that the Planning Commission declares that it upholds the findings of the SEQR process when the Conditional Use Permit was originally approved on 12/16/2021, where the PCZBA was declared Lead Agency and classified the action as Unlisted and that it was determined that there were no adverse environmental impacts.

Moved by Randy Bonville

Seconded by Pat Thorpe

Ayes: 5

Nays: 0

MOTION CARRIED

Motion to Open the Public Hearing at 6:25

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

Motion to Close the Public Hearing at 6:25

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

RESOLVED, that the Conditional Use Permit to re-establish a bar/restaurant located at 1542 N. Lake Street, zoned R-2, Tax Map Number 30.5-1-1, by Valerie Long file# 2023-002 be approved pursuant to Section 190-44, Article B, 2b of the Zoning Ordinance of the City of Oneida with the following conditions:

- 1) Applicant will obtain all required permits and approvals, to include building permit and sign permit;
- 2) A key box must be installed;
- 3) Dumpster is to be screened;
- 4) Construction is to be completed by February 29, 2024.

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

Item #4- Sketch Plat Approval, Preliminary Plat Waiver, and Final Plat Approval for a 2-lot minor subdivision at Middle Road, SBL# 47.-0-2-60.311, zoned Ag, by Jim Conley- file #2023-003.

The applicant was in attendance.

Chris Henry discussed the provisions set in reality subdivisions. Chris also directed the board to Perry's comments related to the subdivision. Perry asked the applicant if any further subdivisions would happen in the next three years. The applicant Mr. Conley assured the board that no further subdivisions would happen.

239 Review- Returned for local determination with the following comments:

“Given past subdivision patterns of the original parcel, it is unclear what the property owner’s plans are for the future of the original parcel. It is also unclear whether this land should be assessed as a major subdivision if it continues to be subdivided in the future.”

SEQRA

RESOLVED, that the Planning Commission be declared Lead Agency and classifies the action as Unlisted.

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

MOTION CARRIED

The PCZBA discussed Part I and completed Part 2 of the Short EAF, and made a determination that there are no adverse effects associated with this project.

RESOLVED, that the PCZBA issues a Negative Declaration under SEQRA.

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

Motion to Open the Public Hearing at 6:35

Moved by Pat Thorpe
Seconded by Randy Bonville

Ayes: 5
Nays: 0

Motion Carried

No Discussion

Motion to Close Public Hearing at 6:36

Moved by Pat Thorpe
Seconded by Todd Schaal

Ayes: 5

Nays: 0

Motion Carried

RESOLVED, that the PCZBA grants Sketch Plat Approval, waives Preliminary Plat Approval, and accepts the Final Plat, thereby granting Minor Subdivision Approval for a 2-lot minor subdivision at Middle Road, SBL# 47.-0-2-60.311, zoned Ag, by Jim Conley- file #2023-003 with the following conditions:

- 1) The approved map must be filed with Madison County within 62 days of approval of the City of Oneida Planning Commission Zoning Board of Appeals.

Moved by Pat Thorpe

Seconded by Randy Bonville

Ayes: 5

Nays: 0

Motion Carried

Item #5 - Fee Updates- Due to rising costs for legal notices, and to keep pace with the rest of the state, new fees and fee increases will be proposed to the Common Council.

Chris Henry discussed the proposed fee schedule to be presented to the common council at the next available meeting. The consensus was that the fees need to be proposed since they haven't been updated since 2010. Randy Bonville commented that it may even be appropriate to levy additional fees to residents that have to get approvals after the fact.

There was discussion about notices going out where other communities send out those notices. There was conversation about the Assessor's office assisting as they had done in the past. Chris conveyed concerns about workload but would have conversations with the Mayor about changing the City's policy.

Item #6 - Interpretation and Appeals Process for Code Enforcement Officer Determination-

Consulting with the Codes Department, we need to create appeals procedures for interpretations on determinations.

Chris and Jay explained the reason. The City is legally required to have a appeals process through New York State. Jay stated that this was mostly due to vacating residents. The City for due process laws must notify residents in advance. The notice must go out with information on how to appeal. The Fire Marshall concurred especially with issues that happen after hours of City Business.

Chris stated that fees would be necessary to ensure that not every action performed by a Code Officer is appealed lightly. That there are administration costs to the City. Jay reassured the board he does not foresee this as a regular occurrence, but it is something that needs to be put in place. Chris additionally stated that most issues are resolved administratively.

Jay further clarified that our own Code allows for appeals.

Item #7 - Zoning Update for Residential in Commercial and Downtown Commercial Zones-

There was a discussion about easing zoning requirement in Downtown Commercial Zones. Chris explained that due to an increase in requests for residential uses in commercial zones in the downtown and other commercial areas in the city, a local law amendment is being drafted that would implement residential uses on the ground floor of Commercial, and Downtown commercial zones. A draft is not complete for communications, but the intent of the draft is to create a law that will allow 50% of the floor area for residential and commercial uses in these zones. Certain streets will require that the front 50% must be commercial, like Main Street, Madison Street, North Main Street, Railroad Street, Oneida Street, Phelps Street, and Farrier Ave.

All residential uses in commercial and downtown commercial zones will require a Conditional Use Permit. The permit will require that the applicant describe how the proposal can be retrofitted back to commercial use in the future.

There was a discussion with the board about the involvement of government parking requirements. Chris explained that the PCZBA can wave parking requirements. The Board said that parking is an issue for the City and will be a really big issue shortly with the DRI.

Chris explained that the intern this past Summer did a parking study and that in no area on average did the utilization rate exceed 70%. Concerns were raised about parking in City lots, and overnight parking in the winter.

Questions were raised about State owned Streets, and the City's jurisdiction. Chris explained there is still conversations and Route 46 having a different classification, where the City maintains the road and the City has a few more rights over Main Street, opposed to Lenox. There were questions about parking on wetlands.

Chris explained there were restrictions, and parking may not be allowed. Chris explained that he will provide an update on the law ASAP.

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

Moved by Todd Schaal

Seconded by Fred Meyers

Ayes: 5

Nays: 0

MOTION CARRIED

Meeting adjourned at 7:23 p.m.