

ZONING BOARD OF APPEALS

NOVEMBER 16, 2020 MEETING OF ZONING BOARD OF APPEALS
REMOTE ZOOM MEETING

MINUTES

Present: Chairman Ron Nolland, Scott DeMane, Kellie Porter, Meghan Weeden, Elizabeth Jent, P.J. Whitbeck (alt) , Julie Baughn (alt)
Kyle Burdo, Housing Code Inspector

Absent: Kellie Porter

Also present: Matt Miller, Director of Community Development
Turner Bradford, McFarland-Johnson
Charles Gottlieb, Whiteman, Osterman & Hanna LLP
Stephen Mackenzie, Mackenzie Architects
Dean DeVito, Prime Companies
Corey Auerbach(legal), Barclay-Damon

Mr. Nolland called the meeting to order at 7:01 PM.

APPEAL	APPLICANT	REQUEST
2232	CITY OF PLATTSBURGH 22 DURKEE STREET	SPECIAL USE PERMIT TO AMEND THE BOUNDARIES OF AN EXISTING PLANNED UNIT DEVELOPMENT AND A SPECIAL USE PERMIT FOR USE OF APARTMENTS ON THE FIRST FLOOR OF A MULTI-STORY BUILDING WITHIN A PLANNED UNIT DEVELOPMENT

The **first** item heard is Appeal #2232 City of Plattsburgh, 22 Durkee Street, special use permit to amend the boundaries of an existing planned unit development and a special use permit for use of apartments on the first floor of a multi-story building within a planned unit development.

Ron Nolland, Chair, makes announcements:

- Kathleen Insley has resigned from the zoning board of appeals.
- Elizabeth Jent has been promoted from alternate zoning board member to regular zoning board member by the Mayor and Council.
- Julie Baughn has been appointed as an alternate zoning board member by the Mayor and Council. Julie will be observing tonight's meeting.

Mr. Nolland explained that a full board is 5 voting members, and that only 4 were available for tonight's meeting. Any motion to be carried requires 3 positive votes. Applicant was given the option to postpone and await a 5-member board, or to proceed with a 4-member board. The applicant chose to wait for a full board.

R. Nolland: Goal of tonight's meeting is to understand and define the final plan so we can, after consulting with legal counsel, develop findings and then develop motions for this application in December.

Board/Applicant discussion of application:

R. Nolland: Discussed correspondence received regarding the zoning board stalling this application process. Despite frustration to the applicant, the zoning board is being thorough. R. Nolland offers a brief quick timeline:

- In July applicant changed the plans.
- In August the plans were incomplete
- In September the City did not pay legal bills and the zoning board postponed. Application was re-sent to County Planning Board and plans changed.
- In October there were still questions and applicant provided further information.

R. Nolland/T. Bradford: Discussion of parking calculations/average height of building from the September 25, 2020 plans.

C. Gottlieb:

- Thanked Kathleen Insley for her service on this project, welcomed P.J. Whitbeck.
- Regarding question of final plans: No changes have been made to plans since the last time applicant was before board. These plans are the final plans.
- Applicant has not been able to present to the Planning Board until Zoning Board takes action.
- Applicant is open to conditions of approval.
- Reassured board that the proposed local zoning law will not affect this project.
- In regard to parking calculations, parking reduction that is being sought is a question the planning board has and is analyzing. Happy to answer any questions zoning board has regarding parking as relates to special use permit criteria. Mixed use developments require a different way of counting parking reflecting blended downtown environment.
- Final plans are as presented. Hopeful resolutions will be drafted for the December meeting.

R. Nolland: Discussion of special use criteria:

- Aesthetics of the building, if the building fits in with downtown, materials used.
- High rise building. This is allowed.
- Setbacks. These were brought in.
- Boundaries. Main criteria interested in discussing tonight is parking, and effect of downtown parking, ways to mitigate this, control of south surface lot.

T. Bradford:

- GEIS/FGEIS are not Prime's documents. These documents are meant to analyze all downtown projects.
- Prime proposed its own alternate method of parking calculations. Only deviation being requested is the manner of calculating the number of spaces.

S. DeMane:

- Board is required to declare findings based on GEIS/FGEIS. In review, we have to base findings on what is of record in GEIS/FGEIS.
- Have not seen anything about The Hamlet in regard to subcompact/compact parking.
- **C. Gottlieb:** Prime's alternate calculation is in the FGEIS as well as the most recent Chazen report. Prime's most recent parking calculation was assessed by Chazen. The Hamlet parking information was submitted in

May. Alternate parking calculations are permitted per zoning code. Looking to change narrative to alternate parking being allowable instead of not permitted/underhanded.

R. Nolland:

- It is correct that the code does allow for alternate parking calculations. This project is asking for a 100 space variation, not something that would typically be granted to a project.
- Would prefer seeing parking demand referred to in more appropriate terminology, which should be “alternate calculation allowed by the PUD process”.
- Wants to understand the 92 spaces in south lot.
 - **D. Devito:** Had stated last meeting Prime does not have a problem making all 92 spots open to the public. Open to suggestions.
 - **R. Nolland:** Suggests changing the subdivision so the city still owns the south lot and the Farmer’s Market building and Prime owns other part with self-sufficient parking.
 - **D. Devito:** Prime was asked to make proposal for entire lot. Not a change Prime is willing to make.
 - **R. Nolland:** Concern about paid versus open public parking. How does the zoning board ensure people near this area have good, full access to these 92 parking spaces? Looking to come up with a condition together to make sure that the public has total access to 92 parking spaces.
 - **D. Devito:** Could define a development agreement that prohibits Prime from entering into any long-term leases with tenants to those parking spaces.
 - **R. Nolland:** Opens up to board for questions/comments on this issue.

Board, Legal, Applicant: Discussion of Chazen parking study. Discussion of site specific parking demand.

R. Nolland: Applicant has made it clear the current plan is final plan. Board will use this plan. Board is now looking for conditions from applicant and co-applicant for protecting the public use of 92 spaces in the South lot.

D. Devito: Asks as an applicant for board to make a resolution that there will be a vote at next meeting.

R. Nolland: Board will as diligently as we can to work toward a decision in December.

Board discussion regarding keeping public hearing open or to close public hearing.

Public Comment:

Scott Allen: Expresses concern regarding the Chazen Study. Was precursory at best. No one from Mr. Allen’s business was contacted from Chazen. Based on conversation with other downtown businesses, no one was directly contacted by Chazen for this study. Part of the offset figures for 289 spaces, was that 66 spaces were crated in county log, but there were already 44 existing spaces in that lot. The 250 excess in SAD are on-street. Cannot count those as the same as in Durkee Street lot because they are on-street and intended to be short-term and when snows, overnight those spaces are closed. Study did not take into consideration 3rd floor buildout, which could increase parking demand if vacant spaces were renovated. Question for chairman, 90 surface parking spaces, how many of 90 spaces are counted in prime’s calculation? R. Nolland estimated 40 spaces and the board is asking the applicant to provide all 90 spaces not as part of calculations. The parking table would need to be adjusted.

John Sieden: Has never been approached about any parking calculations. My business at a minimum employs 50 people every day. Frustrated to listen to fabricated numbers for parking. People need to conduct business, and employees need places to park. City employees like to park close to where they work. When Kathleen Insley was on board, P.J. Whitbeck was on board only to review this plan. Coldwell Banker is under same umbrella of Prime Companies. Mr. Sieden sees this as a conflict of interest.

Syl Boudreau: Thanks board for taking comments. Please keep public comments open because have not had a chance to see finding statement from ZBA, and would like the time to read and comment on it. Would like to address what Mr. Sieden said regarding zoning board member is employed by Coldwell Banker. Prime LLC operates a

franchise owned by Colwell Banker. Both are affiliated by a group traded on Wall Street. Ms. Boudreau believes Coldwell banker will be renting out the apartments and commercial real estate. Believes this is a potential conflict of interest.

Terry Broderick: Would like to also point out another potential conflict of interest, possibly down the road. Newly appointed board member, J. Baughn was adamantly opposed to Prime in the early stages, but when the current administration offered her to relocate the Plattsburgh Farmer's and Crafter's Market, she has become a sympathizer to the current administration. Concerned that if called upon to vote on this, she may not be able to vote with an unbiased opinion.

Kevin Farrington: Would like to address D. Devito from Prime, feels like the City owes him an apology. A lot of hard work was put in to come up with a good plan to benefit the city, but after the 2016 elections that changed in favor of a giveaway that abandoned public interest and public benefit. Believes good information is not being obtained from city staff. Mr. Farrington referenced a letter received from PCC this week from attorney Matt Fuller. "As has long been suspected by PCC, neither the city's planning board nor zoning board of appeals are being provided unbiased information from city staff in both of those boards respective review process." Considers this parking plan flawed and a failure. County parking lot does not have 69 new spaces in parking lot, only has 16. Will invite overflow parking from Oak Street. Chazen hired by applicant, report not unbiased. Discusses Carl Walker parking study versus Community Development (E.Vinson) parking study; feels this was deceptive to peak hour parking.

Debbie Momont: Thanks board for allowing public comment. Recalls everything on website was updated and accurate regarding Durkee Reimagined. Current plan does not reflect Durkee reimagined. Has interest in 33 and 39 Bridge St. No one has come to us from any consulting firm for current or projected parking needs as an owner of adjacent property that is severely impacted by this project. Appreciates the continued effort on everyone's part to find a happy medium. Wants to see development. Has concern for tenant parking, as her property on Bridge Street has need for 15 parking spaces for tenants. Suggests doing a test – block all spaces that would not be available when project went through and keep spaces blocked for a couple storms and see how it works. We are already having a negative impact on the North Country Co-op during our construction at 33 Bridge when contractors need to park. People are not going to park at Arnie Pavone or Broad St. Parking lot to go to Co-op. Appreciative of all efforts of everyone, including applicant. In favor of a smaller footprint, parking area and farmers marking being retained by city with potential of parking garage at a later point.

Danielle Erb: Reiterates the point that Chazen has not contacted downtown businesses. As member-owner of North Country Co-op, Chazen study did not take into account specific uses particular t this area. Coop is the only grocery store downtown, having easy parking access next to establishment is critical to survival. Would like to know specifically what prime would be willing to do for specific businesses that rely on proximate parking for survival.

Tim Palkovic: Durkee Street lot is a civic space, a space to draw people together. Prime is building in the middle of this lot, which will restrict our city's civic space. This project will work against the city.

Kathy Baumgarten: Downtown Plattsburgh resident. Speaking tonight to urge board to vote no on subdivision of Durkee Street subdivision, and project as a whole. Will have a negative effect on every public event historically taken place in our city; Mayors cup, battle of Plattsburgh, Fourth of July. I shop downtown several times a week and Durkee Street lot and Pavone lot are full. Concern if there is no parking downtown, people will head up Broad St. and Cornelia St. and go to the mall or Walmart. Do not want to see business being driven out of downtown, which in turn will have a negative impact the city's tax base. Snow ban parking will have my family members parking at the marina parking lot, which is over a mile away from their apartment, and the city does not clear sidewalks. Urging the board to not vote yes because you are tired of hearing about it. There are lots of people who love our city and the history of our city.

Shelise Marbut: *An employee of the city. These comments are my own, I have not been asked by the City to make these comments, instructed or otherwise advised to make these comments. Specifically, one concern from past meetings, as well as this meeting, is zoning review applicable to land uses not ownership. Discussion about trying to maintain southern side of the parcel in City ownership, understandably. The concern is that the statutes that grant this board any kind of power or authority are related to the fact that zoning must address land use not ownership, it must be based on land impacts of the property use, not the identity of the users of the property nor the identity of the owner of the property. The parking land use and parking demand will remain the same no matter who owns it. Would ask that in making a decision, the board would stick to the procedure outlined in the NY state statute.*

Carol McLean: *Owner of Iris's Café and Wine Bar and building at 18-24 City Hall Place. Would like to comment on parking issue. Feels that the needs of the adjacent building owners are not being addressed adequately. Replacement parking does not adequately impact the businesses in our area on City Hall Place. Will not help customers or tenants or employees. Was never contacted by Chazen Parking Study. Concern of impact of snow parking. Snow ban parking at Marina is not an adequate solution. Has already had tenants refuse to rent because of future parking issues. Originally supported this project and was dumbfounded when it went through and the details came out that it was not required for the developer not to replace all of the parking. Would implore the zoning board to think about the impact that this is going to have on all the businesses and landowner's downtown.*

R. Nolland – Adjourn Public Hearing

MOTION:

By: S. DeMane, seconded by E. Jent

MOTION TO CLOSE PUBLIC HEARING FOR VERBAL COMMENTS AS OF TODAY, NOVEMBER 16, 2020 AND ALLOW WRITTEN COMMENTS UP UNTIL CLOSE OF BUSINESS ON DECEMBER, 18, 2020

ALL IN FAVOR: 3

OPPOSED: 1

(R. Nolland voted in the negative)

MOTION PASSED

Discussion: Board and Corey Auerbach, legal counsel, discussed working together on finding statements and resolutions for Appeal #2232.

R. Nolland, chair, adjourns action on Appeal #2232 City of Plattsburgh, 22 Durkee Street, special use permit to amend the boundaries of an existing planned unit development and a special use permit for use of apartments on the first floor of a multi-story building within a planned unit development. The board will work diligently toward completing resolutions and findings for the December 21, 2020 Zoning Board of Appeals meeting.

MOTION:

By: E. Jent, seconded by E. Jent

MOTION TO ACCEPT SEPTEMBER MINUTES AS WRITTEN

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

Motion to Adjourn:

By: E. Jent, seconded by S. DeMane

Adjourned at 9:12 PM

For the purpose of this meeting, this meeting was audio and video recorded. This is a true and accurate copy and transcription of the discussion and for a more detailed discussion, see the recording.

Lisa Beebie
Secretary
Zoning Board of Appeals