

ZONING BOARD OF APPEALS

SEPTEMBER 21, 2020 MEETING OF ZONING BOARD OF APPEALS  
REMOTE ZOOM MEETING

MINUTES

**Present:** Chairman Ron Nolland, Kathleen Insley, Scott DeMane, Kellie Porter, Meghan Weeden, Elizabeth Jent (alt), P.J. Whitbeck (alt)  
Joseph McMahon, Building Inspector  
Kyle Burdo, Housing Code Inspector

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

Mr. Nolland called the meeting to order at 7:06 PM.

<b>APPEAL</b>	<b>APPLICANT</b>	<b>REQUEST</b>
2248	ALBERT PHILLIPS 54 ELM STREET	CLASS B AREA VARIANCE FOR A PARKING AREA WITHIN THE FRONT YARD SETBACK
2249	KEITH R. BAUGH 84 BRINKERHOFF STREET	CLASS B AREA VARIANCE TO CONSTRUCT A 12 FT X 15 FT ACCESSORY STRUCTURE IN REAR YARD, OPEN SPACE AND COVERAGE DEFICIENCIES.
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 agenda will be heard in the following order:

Appeal 2232  
Appeal 2248  
Appeal 2249

The first item, 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 will not be heard at this meeting.

Ron Nolland commented that the City of Plattsburgh Common Council passed 2 motions recently; one on August 27, 2020 rejecting invoices from The City of Plattsburgh Zoning Board of Appeals chosen legal counsel and asking to start an investigation, and a second on September 9, 2020, to hire an attorney to commence an investigation into the actions of Ron Nolland, Chair of the Zoning Board of Appeals, for hiring of an attorney for the Zoning Board of Appeals. Correspondence commenced afterward and Ron Nolland indicated to the council, Matt Miller, Building Inspector, Applicant, Common Council, and Mayor that until this issue was resolved, the Zoning Board of Appeals would not continue hearing the City's application on behalf of Prime Development. Discussion followed.

Ron Nolland commented that he received a copy of a letter from the applicant in response to Plattsburgh Citizens Coalition regarding a 239M County referral. Chair R. Nolland verified this letter was part of the official record. Charles Gotleib explained this was submitted only by the City Planning Board because only the site plan was deemed to meet "substantial changes" for resubmission of 239M to the County Planning Board. Mr. Gotleib felt it unnecessary for the special use permits to be re-submitted as there were not substantial changes to these applications and they were already approved by the County Planning board previously as a local issue with comments.

#### Discussion:

- Ron Nolland: Parking has changed, one of the 5 criteria used in general to control density. There is still a parking deficiency, restaurant or not. If changes were substantial enough to originally go to planning board, why not significant enough to go to county again.
- J. McMahon: Did not feel it did not need to be re-referred. On/about the deadline date, called upstairs to bundle a re-referral. Discussed with Malana Tamer and Glen Cutter and everyone was in agreement that the special use permits did not have a significant enough change to be re-submitted.
- Corey Auerbach: The failure to refer, even if not required, out an abundance of caution or prudence, does not necessarily prejudice or invalidate eventual decision. Sending will not delay process, not sending may delay process.
- Scott DeMane: After hearing Corey Auerbach, do not see reason not to send to County if it does not delay process at all. Safer off submitting than not.
- Kellie Porter: What is to be gained by resubmitting?
- Dean DeVito: Can go back to original parking plan – Keep retail as it was and go back to original commercial/residential plan to address parking issue.
- Elizabeth Jent: No harm no foul? Agreeable to sending.
- Kathleen Insley: When is deadline? Not seeing practical reason not to send.
- Ron Nolland: Would like to ensure process is followed.
- Charlie Gotleib: Concerned this is an unnecessary approval that may have adverse impacts.
- Dean DeVito: If this goes to county, and if negative determination, would this now require super majority?
- Kathleen Insley: This is an unprecedented project, feel being conservative is not out of line.

*MOTION:*

By: S. DeMane, seconded by K. Insley

IN REGARD TO APPEAL #2232, BASED ON NEW PLAN THAT HAS BEEN SUBMITTED TO THIS BOARD, WE REQUEST THE BUILDING INSPECTOR RE-REFER THE 239M REFERRAL TO THE COUNTY PLANNING BOARD.

ALL IN FAVOR: 4

OPPOSED: 1  
(K. Porter voted in negative)

MOTION: PASSED  
(M. Weeden abstained)  
(P.J. Whitbeck (alt) abstained)

*MOTION:*

By: K. Insley, seconded by K. Porter

IN REGARD TO APPEAL #2232, THIS BOARD MOVES TO POSTONE ANY REVIEW OF THE APPLICATIONS IN FRONT OF US ON THIS PROJECT UNTIL PAYMENT TO INDEPENENT COUNCIL BY THE APPLICANT IS RESOLVED TO OUR SATISFACTION, WHICH WOULD INCLUDE COREY AUERBACH'S SATISFACTION. THIS BOARD ALSO RESERVES THE RIGHT TO REQUIRE THE APPLICANT TO PUT MONEY INTO AN ESCROW ACCOUNT ACCORDING TO ORDINANCE IF NEEDED.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(M. Weeden abstained)  
(P.J. Whitbeck (alt) abstained)

The **second** item heard was Appeal #2248, 54 Elm Street, Class B area variance for a parking area within the front yard setback.

Board and applicant discussion regarding the location of proposed parking area in front yard setback. Parking spaces are required to be in side or rear yard. Proposed parking area is for tenant parking. Applicant has issue in winter as there is no place other than this grassy area for off street parking when it snows. Discussion of possible modifications, possibility of widening driveway. Albert did measurements during meeting, driveway at most could be extended to approximately 15-1/2 feet.

*Public comment: None.*

*MOTION:*

By: S. DeMane, seconded by K. Insley

FOR APPEAL #2248 AFTER REVIEW OF PART I, THE 11 QUESTIONS IN PART 2 MAY BE CHECKED NO OR SMALL IMPACT MAY OCCUR, AND AS A RESULT OF THAT, THE CHAIR MAY CHECK IN PART 3 THE BOX THAT WE HAVE DETERMINED THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIROMENTAL IMPACT.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED  
(P.J. Whitbeck (alt) abstained)

*MOTION:*

By: S. DeMane, seconded by M. Weeden

IN REGARD TO APPEAL #2248, ALBERT PHILLIPS, 54 ELM STREET, MOTION TO APPROVE PAVING A PARKING SPACE IN THE FRONT YARD AS SHOWN IN PLANS, OF WHICH 17 FEET WILL BE IN THE FRONT YARD SETBACK.

ALL IN FAVOR: 1

OPPOSED: 4  
(R. Nolland, K. Insley, K. Porter, S. DeMane voted in negative)  
(P.J. Whitbeck (alt) abstained)

MOTION DENIED

The **third** item heard was Appeal #2249, 85 Brinkerhoff Street, Keith Baugh, class B area variance to construct a 12 ft. x 15 ft. accessory structure in rear yard, open space and coverage deficiencies.

Board and applicant discussion of accessory structure built to replace a garage that was torn down years previously. Discussion of open space and coverage calculations; 3% over for open space; 3% exacerbation in coverage.

*Public Comment: None.*

*MOTION:*

By: K. Porter, seconded by: M. Weeden

REGARDING APPEAL #2249, AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM PART ONE, WE ADVISE THE CHAIR TO CHECK IN PART 2 THAT THERE IS NO OR SMALL ENVIRONMENTAL IMPACT THAT MAY OCCUR WITH THIS PROJECT, CHAIR MAY THEN CHECK THE BOX AND SIGN ON PAGE 4.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

(R. Nolland and S. DeMane recused)

*MOTION:*

By: K. Porter, seconded by: M. Weeden

FOR APPEAL #2249, WE APPROVE FOR AN OUTSIDE STORAGE BUILDING TO BE ALLOWED, UNDERSTANDING THAT IT CURRENTLY EXACERBATES THE COVERAGE BY AN ADDITIONAL 3% AND ALSO HAS A 3% DEFICIENCY IN OPEN SPACE.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

(R. Nolland, S. DeMane recused)

Motion to Adjourn:

By: K. Insley, seconded by K. Porter

Adjourned at 9:06 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