



**CITY OF RENSSELAER**  
**PLANNING AND DEVELOPMENT AGENCY**  
**BUILDING & ZONING**  
CITY HALL, 62 WASHINGTON STREET  
RENSSELAER, NEW YORK 12144-2696  
Planning (518) 465-1693 Building (518) 462-5489 Fax (518) 465-2031

**Minutes of the Special Meeting of the City of Rensselaer Zoning Board of Appeals**  
**First Floor Conference Room, Rensselaer Community Center, 62 Washington Street**  
**September 7, 2010**

**Members Present:**

Chair – Gene Hilstro, Vice Chair – Bill Bulnes, Nancy Hardt, Paula Micheli

**Members Not Present:**

Nancy Johnson, Terance Ruso, Leonard Sciotti, Michael Scott

**Staff Present:**

Marybeth Pettit – Planning Director, Kevin McLoughlin – Assistant Director of Planning

**Others Present**

Arline Burton, Will O’Leary, Joan Grock, Bernie Lennon, Jim Johnson, Kurt Bergmann, John DeFrancesco, Harry Adalian, Rebecca Jordan-Alfano, David Buchanan, John Stephenson, Marie Stephenson, Sae Win, Margaret Weldon, Daniel Jordan

**Call to Order:**

The special meeting of the City of Rensselaer Zoning Board of Appeals was called to order at 6:02 PM. Roll call was taken and it was determined that there was a quorum.

**Adoption of Past Meeting Minutes:**

The minutes of the regular meeting of June 28, 2010 were approved as submitted and without correction.

**Old Business**

- 1. Albany Yacht Club, 63-67 Broadway** – reconsideration of Use Variance to operate a boat storage and overflow parking area, and rent a professional office / residential space in a historic residential (HR) zoning district.

Will O’Leary described the requested amendments to the previously submitted Site Plan and Certificate of Appropriateness that had been made in discussion with the neighboring residents at the prior meeting. These changes included removing the trees along the property margins due to allergic

concerns, replacing and painting a damaged section of stockade fence, and installing ‘half-barrel’ planters in front of the main gate.

Will O’Leary presented a cost estimate of the demolition of the existing buildings on site and argued that conversion of the property to strictly residential use would be too expensive.

Arline Burton and Joan Grock expressed agreement with the proposed changes as per their discussion with the applicant and the board at the prior meeting. They both emphasized their disinterest in having any trees along their property boundaries shared with the Yacht Club. Chair Hilstro confirmed for them that the trees had been removed from the site plan.

Chair Hilstro lead the board in a review and completion of Part II of a Short EAF.

Mr. Bulnes moved to declare as Lead Agency under SEQRA and issue a Negative Declaration based on the completed EAF. Ms. Hardt seconded. The motion was unanimously approved.

Mr. Hiltro moved to Grant an amended Use Variance to reflect the amended Site Plan based upon demonstration of the excessive cost of demolition of the existing buildings to convert the site to strictly residential use. Motion was granted with the following stipulations established with agreement of adjoining property owners: that no trees are planted along the neighbors’ property lines; that the section of stockade fence along the southern property line indicated on the amended site plan be replaced and painted to match the existing fence; that boats stored in the winter be set back 10’ from the property line as shown on the amended site plan while empty trailers less than the stockade fence height and therefore not visible from adjoining properties may be stored next to the fence; and that half-barrel planters will be placed in front of the Broadway gate to help screen the yard from the street. Mr. Bulnes seconded. The motion was unanimously approved.

### **New Business**

- 1. AMRI, 33 Riverside Avenue** – request for Area Variance of 3’ over the maximum 4’ to install 7’ high cedar screening fence within 25’ of the pavement of Rensselaer Avenue and Area Variance of 3’ over the maximum 4’ to install 6’ chain link and 1’ razor wire within 25’ of the pavement of Riverside Avenue in a heavy industrial (I) zoning district.

Bernie Lennon described the project as replacement of the existing perimeter fence to increase the site’s security. The northern side will also be screened to increase the visual buffer between the industrial facility and the historic-residential (HR) neighborhood. He stated that the vegetative screening (ivy) discussed at a prior meeting was not something his company wanted to maintain, but that they would paint the fence and remove graffiti in a timely manner.

Mr. Hilstro asked how the fence would be treated and Mr. Lennon explained that the stockade fence would be modeled on that already installed behind the properties on Belmore Place.

Chair Hilstro opened the public hearing at 6:30 PM.

Hearing no one else to speak for or against the application, Chair Hilstro closed the public hearing at 6:31 PM.

Mr. Bulnes moved to Grant an Area Variance of 3' over the maximum fence height within 25' of the roadway for installation of a cedar fence along the northern property line and a chain link fence along the southern property line. Motion was granted with the following stipulations: that the cedar fence on the northern property line is stained to match the existing section along Belmore Place; and that any graffiti is removed by the applicant in a timely manner. Ms. Hardt seconded. The motion was unanimously approved.

**2. John DeFrancesco, 1453 Third Street** – request for Area Variance of 6' over the maximum 6' to allow a 12' stockade privacy fence in a residential (R2) zoning district.

John DeFrancesco described in detail, using supporting photographs, his claim of ongoing dispute, harassment, and vandalism directed toward his property and family from his neighbor. He indicated that when he installed the high fence the instances of confrontation and property damage dropped significantly. He described several instances documented by the submitted police report summary where threats had been directed toward him or his family members or he had reported acts of vandalism. John DeFrancesco presented a petition signed by several neighbors to support his variance application so that he could enjoy the privacy of his back yard with security and without harassment. In reviewing the statutory Area Variance tests, he noted the following: the fence cannot be seen from the street, vegetative screening would take too long to grow to create an immediate visual buffer, that the fence was compatible with the neighborhood character owing to the support demonstrated in the signatures on his petition, the variance requested was for only one side of the rear yard and not the entire property, and that based on the submitted information he felt it was clear the situation was not of his own making and therefore not a self-created hardship.

Mr. McLoughlin asked about the slopes and relative heights of the rear yard. John DeFrancesco responded that both properties sloped toward the rear lot line significantly and this was why the neighbor's first floor deck was higher than his ground-level pool and was higher than the standard 6 foot stockade fence.

Ms. Hardt asked if the neighbor's deck was built without a permit. John DeFrancesco stated that he believed it was.

Mr. Hilstro asked if the neighbors owned the property next door and John DeFrancesco stated that he believed the residents were co-owners.

Chair Hilstro opened the public hearing at 6:54 PM.

David Buchanan stated that he felt quiet enjoyment of one's back yard in his view outweighed the concern of setting a bad precedent.

Harry Adalian spoke in support of the applicant's request, noting that it was a quality of life issue.

Hearing no one else to speak for or against the application, Chair Hilstro closed the public hearing at 6:56 PM.

Mr. McLoughlin stated that the unique circumstances of the large slope in the rear yards of the properties would help mitigate against establishment of a precedent allowing such high fences throughout the city.

Mr Bulnes moved to Grant an Area Variance for 6’ over the maximum 6’ fence height owing to the safety issue demonstrated by the applicant in the record and relying on the fact that the sloping conditions of the properties involved does not allow a normal height fence to screen the applicant’s property from the neighbor’s first floor deck as would normally be possible. Motion was granted with the following stipulations: that the variance only applies to the side lot line in the rear yard adjacent to 1451 Third Street (3 sections of stockade fence); and that the fencing is of safe and stable construction meeting with the approval of the Building Inspector. Ms. Hardt seconded. The motion was unanimously approved.

- 3. Municipal Salt Shed, 150 Aiken Avenue** – request for Area Variances of 10’ less than the minimum 20’ required front yard; 18’ less than the 25’ minimum required rear yard; and 2’ over the maximum 4’ fence height to allow construction of a salt storage shed and materials yarding area in a commercial-industrial (CI) zoning district.

Harry Adalian – Common Council President stated that the city has had a long-standing intent to move the salt storage area from the current location in a residential area of Broadway. The Mayor had identified a new site and working with the City Engineer put a design before the Common Council. The Council investigated the salt storage practices of other communities in the area and found this site and design in line with those other examples. He stated that the salt would be stored on a concrete pad contained on three sides with push walls and that the rest of the site would be paved with asphalt.

Ms. Hardt asked about the tarp. Harry Adalian responded that the tarp would fully cover the salt and was a temporary measure until the funds to put up the shed walls and roof could be obtained.

Two neighborhood residents raised concerns about potential flooding of South Street in this area, noting that they have seen flood levels close to the elevation of Ted Burek’s building. Harry Adalian responded that while no one could guarantee no flooding would occur, the standard engineering methods and practices employed in the site design provide a sufficient and recognized safety margin by elevating the structure’s base above the designated base flood elevation for that location.

Mr. McLoughlin stated that the city was applying the standards that it would use for any private residential or commercial development in the area.

Ms. Hardt asked about the fence height. Ms. Pettit stated that it would be a 6-foot fence installed for security purposes. She added that the City Engineer had amended the site design to move the shed as far away from Mill Creek as possible and listed the new setback variances as 14’ front yard, 20’ rear yard, 5’ side yard, 2’ fence height.

A neighbor asked if the catchbasins on South Street would be repaired because they are severely sunken and pool with water. Ms. Pettit responded that it was possible the catchbasins at South and

Aiken Street might need to be cleaned, but that physical repairs were not planned as part of this project.

Ms. Micheli asked if the trucks would be accessing the shed from the rear of the property. Harry Adalian responded that the access to the salt shed would be from the South Street side of the property.

Chair Hilstro opened the public hearing at 7:16 PM.

Harry Adalian – Common Council President spoke in support of the application. He noted that this was an effort to come into compliance with NY State standards and stormwater requirements. He stated that it was the best possible site location and design the city could afford at this time

Two unidentified individuals expressed that they could not state that they were against it, but that they wanted the project to be done correctly so as not to decrease the attractiveness of a primary route to the regional rail station or increase existing problems experienced by neighbors.

Hearing no one else to speak for or against the application, Chair Hilstro closed the public hearing at 7:20 PM.

Mr. Bulnes made a motion to Reserve Decision on the application pending a site visit and receiving a copy of the site plans prepared by the City Engineer. Mr. Hilstro seconded. The motion was unanimously approved.

**4. Rebecca Jordan-Alfano, 39 John Street** – request for Area Variance of 10’ less than the minimum 10’ front yard to allow modification of front steps in a residential (R3) zoning district.

Dan Jordan described his proposal to repair and relocate the steps to his front porch, citing a safety concern that the porch was open on the uphill side and a potential hazard to children on skateboards coming down the hill.

Mr. Bulnes asked if only the stairs were being altered or if the porch was being expanded as well. Dan Jordan responded that a railing would be added on the east side and items reconstructed, but that the porch area would not change in size, and the new stairs would face the street.

Mr. Bulnes asked if this was a wide, 60’ city right-of-way. Mr. McLoughlin confirmed this was the case and that somewhere in the city’s past some incorrect survey information was used as buildings on one side of the street or the other appear to be within the city right of way.

Mr. Bulnes explained to the applicant that being in the city right of way, he would be liable for reconstruction of the structure if the city needed to install infrastructure or otherwise use the city property. Dan Jordan confirmed that he was aware of this.

Ms. Pettit noted that the applicant would need to name the City of Rensselaer as an ‘additional insured’ on their homeowner policy per the typical requirements of the Common Council for allowing private structures on municipal right of way. She asked if the new stairs would be painted as untreated wood detracts from the neighborhood character.

Chair Hilstro opened the public hearing at 7:34 PM.

Hearing no one else to speak for or against the application, Chair Hilstro closed the public hearing at 7:35 PM.

Mr. McLoughlin noted that the variance was to allow the applicant to have a structure directly on the lot line and that setting a distance from the curb could be accomplished with a stipulation in the resolution.

Mr. Bulnes made a motion to Grant an Area Variance of 10' from the required 10' front yard setback to allow construction of front steps on the Condition that the Common Council approve a resolution allowing this structure on municipal property and with the following stipulations: that steps are no closer to the sidewalk than shown on the submitted drawing; that the steps are enclosed / boxed in and painted to match the house; applicant acknowledged in the record that they understood the construction would be located in the city right-of-way and should the need for access or use arise could be removed by the city without compensation; and that the applicant name the City of Rensselaer as an additional insured on their homeowner insurance policy per the requirements of the Common Council. Mr. Hilstro seconded. The motion was unanimously approved.

**5. David R. Buchanan, 810 Broadway** – request for Area Variance of 3 spaces less than the minimum 3 required parking spaces to allow development of two 2<sup>nd</sup> floor residential apartments in a local business (LB) zoning district.

David Buchanan described his plans to renovate the former City Library building. He stated that his justification was that the building started as two separate residences and that the neighborhood had several storefront buildings with residences above. He added that he wanted to put in the apartments now to help produce some income for use in renovating the ground floor office space.

Ms. Pettit noted that the Comprehensive Plan specifically encourage more of this type of mixed property use.

David Buchanan added that his property was unique in that the structure occupied almost all of the lot and there was not access to the rear yard from the street.

Ms. Hardt noted that there was sufficient parking when the property was used as a bank and a public library.

Mr. McLoughlin noted that while there could be some minor inconveniences to neighborhood residents, there was generally more than adequate on-street parking on that section of Broadway as well as around the corner on Partition Street.

Chair Hilstro opened the public hearing at 7:45 PM.

David Buchanan expressed his support for the project.

Hearing no one else to speak for or against the application, Chair Hilstro closed the public hearing at 7:46 PM.

Mr. Hilstro noted to the applicant that he would need to apply for parking variances again when he planned to rent out the ground floor office space.

Mr. Hilstro made a motion to Grant an Area Variance of 3 off-street parking spaces from the required 3 spaces for 2 residential apartments, relying on the lack of street access and minimal yard area on this traditional downtown lot as well as available on-street parking in the vicinity. Mr. Bulnes seconded. The motion was unanimously approved.

**Other Business:**

NONE.

**Adjournment:**

Hearing no objections, Mr. Hilstro adjourned the meeting at 7:55 PM.

**Next Meeting:**

The next regular meeting is scheduled for September 27, 2010 at 6:00 PM

**Record of Decisions:**

An official record of decisions noting the details of motions from this meeting along with conditions & stipulations has been filed with the City Clerk and a copy maintained in Planning Department records.

Respectfully submitted,

Kevin McLoughlin  
Acting Secretary