

TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS
May 16, 2016

A Public Hearing was held on May 16, 2016 at 7:00 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Nancy Baker regarding property located at 1347 NYS Route 11, Kirkwood, known as Tax Map #179.03-4-44.1 and located in a Residential-Multi (RM) District, for an area variance to subdivide 8.61 acres into a buildable lot for a new single family residence.

Present: Duane Travis, Chairperson
Mike Maciak, Member
Ed Egan, Member
Cyndi French, Member
Bruce Nemcek, Member
Jason Griffin, Associate Member
Nathan VanWhy, Attorney

Absent: None

Chairman Travis called the meeting to order at 7:00 pm.

APPROVAL OF MINUTES:

Motion by Mike Maciak and second by Cyndi French to approve the minutes of the January 4, 2016 meeting as submitted. All voted in favor. Motion carried.

PUBLIC HEARING – NANCY BAKER

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the town clerk, notice to property owners within 500 feet of the project, affidavit of publication in The Binghamton Press & Sun Bulletin and County Courier, and affidavit of service by mail. We have the Broome County Planning Departments 239-m comments. A Short EAF has been filed. Broome County Planning Department has reviewed the above cited case and has not identified any significant countrywide or inter-community impacts associated with the proposed project. However we recommend the Zoning Board of Appeals withhold taking action on the project until the following comments are addressed. The site plan should be drawn to scale and include the entire existing and proposed tax map boundaries, existing and proposed building and structures, existing and proposed driveway(s), existing and proposed septic system(s), utilities, drainage and setbacks. The Broome County Health Department (BCHD) commented, not sure if public sewer is available at this location. If not, the applicant will have to obtain a permit to install a private septic system at the property from the Health Department. The Binghamton Metropolitan Transportation Study (BMTS) has no comments. The New York State Department of Transportation (NYSDOT) commented nothing is to be placed within the NYS right-of-way without prior approval. If work is proposed in the right-of-way a NYS permit must be obtained.

Chairman Travis opened the public hearing to public participation at 7:04 pm.

Hearing no comments, Chairman Travis closed the public hearing at 7:04 pm.

Chairman Travis asked attorney Nathan VanWhy if it was necessary for the short Environmental Assessment Form to be filed. Attorney Nathan VanWhy said no not for this project.

Chairman Travis stated at the time the applicant filed, we did not have a drawing. We now have a survey of the property. Chairman Travis stated the minimum lot size for multi-residence is a little over $\frac{1}{4}$ of an acre. This is going to be 1.3 acres. There is one item that I see that does not meet Code; it is the length of the frontage. It is listed on the survey as 78.76 feet and Code is 80 feet. Is it possible to extend this? Owner Richard Witter said absolutely we have 3 $\frac{1}{2}$ feet, I have 7 other acres also. Chairman Travis said we only need 2 more feet and it would be within Code. Mr. Witter asked if he would have to bring the surveyor back for the 2 feet. Chairman Travis said that would be between you and the county but you probably should. Nathan VanWhy said the County should be able to just update his map for 2 feet.

Nathan VanWhy explained Mr. Witter submitted this application because the areas on the sides of this property were under the $\frac{1}{4}$ of an acre needed. The board is looking for something smaller than $\frac{1}{4}$ of an acre. However now that we have the survey, it is clear he has enough land on the sides of this parcel. Chairman Travis said you have plenty of room, the only problem I see is he needs approximately 1 $\frac{1}{4}$ feet on the front of the parcel. I would ask them to update the map for you. Nathan VanWhy stated the house needs to be more than 15 feet from the sides. Chairman Travis said the only other thing you will need to do is check with NYSDOT on the right-of-way to put a driveway in and check with the BC Health Department about a septic.

Chairman Travis asked the board if they had any more questions. Nathan VanWhy said your application was for the size of the lot so as long as your frontage meets 80 feet, you don't need the board's approval. There is no action for the board to take because there is no variance needed. Mr. Witter said he didn't understand why he needed a variance in the first place. Chairman Travis stated the issue was they didn't know the size of the lot for the house but now with the survey, we see what the lot size is so no variance will be needed.

Nathan VanWhy stated no motion is necessary if Mr. Witter is willing to withdraw his application. Mr. Witter stated I withdraw my application.

A Public Hearing was held on May 16, 2016 at 7:12 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of 4 Play Sports Bar (Damien D'Ambrosio) regarding property located at 624 Upper Court Street, Binghamton, known as Tax Map #161.08-1-18 and located in an Business-2 Entertainment (B-2) District, for an area variance to allow for additional parking spaces.

PUBLIC HEARING – 4 PLAY SPORTS BAR (DAMIEN D'AMBROSIO)

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the town clerk, notice to property owners within 500 feet of the project, affidavit of publication in The Binghamton Press & Sun Bulletin and County Courier, and affidavit of service by mail. We have the Broome County Planning Department's 239-m comments. A Short EAF has been filed. Broome County Planning Department has reviewed the files for the above cited case. We recommend that the Town Zoning Board of Appeals withhold taking action on the project until the following comments are addressed. The project site is located partially within the preliminary FEMA special flood hazard area. The applicants should be informed of the risks of placing the project in this area. The driveway opening needs to comply with NYSDOT standards. Any work proposed within the state right-of-way requires a

highway work permit. The highway boundary needs to be verified to ensure nothing is placed in the state right-of-way. The applicants must obtain the necessary DOT approvals and permits. The project site is located in a highly visible and traveled route, all debris should be removed, repair and paint the building exterior, make cosmetic improvements to the building exteriors and pave and landscape the parking lot. The site plan should include a scale showing the entire property boundary and include the following: parking lot and parking spaces for the Sports Bar and Club, driveway opening and dimensions, curb cuts, entrance and exit; NYSDOT right-of-way, pavement material, drainage, fencing, dumpster enclosure, landscaping, exterior lighting, signage and setbacks. Based on the aerial photography for the area, it appears that the existing parking lot and fencing encroach into the NYSDOT right-of-way. The Town Zoning Board should ensure that the parking spaces, fencing and signage are located outside the NYSDOT right-of-way. The dumpster enclosure should be moved to the back or side of the building. The Town Planning Board should ensure that the project included appropriate drainage. The Broome County Health Department (BCHD) commented if food service activity is planned for the facility, a permit would be needed from the Health Department. The Binghamton Metropolitan Transportation Study (BMTS) has no comments. The New York State Department of Transportation (NYSDOT) has the following comments. The driveway openings should be brought into compliance with department standards. As detailed the shared driveway for the Sports Bar appears to be 50' wide. The maximum opening for a minor commercial driveway is 24 feet (one way) and 35 feet (shared two-way) for this location. The applicant's method of driveway opening modification shall be approved by the department and may require a highway work permit. Any work proposed within the right-of-way requires a highway work permit from our department prior to the commencement of such work. Nothing shall be placed within the State right-of-way including fencing, signage, hazardous landscaping, parking etc.

Chairman Travis stated there was a short Environmental Assessment Review done by the Town Planning Board. He asked Attorney Nathan VanWhy if we still had to complete a review. Attorney Nathan VanWhy asked Chairman Travis if he receive a notice from the Town Planning Board that they were the lead agency for this action. Chairman Travis stated he did not receive anything from the Town Planning Board. Attorney Nathan VanWhy stated then the Zoning Board would have to do their own review.

Chairman Travis opened the public hearing to public participation at 7:22 pm.

Partner, Damien D'Ambrosio of 4 Play Sports Bar came forward to explain they went in front of the Town Planning Board and they were giving a copy of the comments from above and they have done everything they asked. The second time they went in front of the Planning Board the only issue they had left was we were a few parking spaces short. This is all we needed to do to get this project done. I have tried to beautify this building and clean the place up. I knocked the book store out. We are going to repave the parking lot and paint the building. The Planning Board told us we had to come to the Zoning Board for a variance because we are five (5) parking spaces short.

Hearing no comments, Chairman Travis closed the public hearing at 7:25 pm.

Chairman Travis asked will the bar be on the end closest to Binghamton. Mr. D'Ambrosio said yes. Chairman Travis asked on the end, where the bar will be, how many parking spots are there. Mr. D'Ambrosio answered 8 (eight). Cyndi French asked how customers would get in and out of these parking spaces. Partner, Ronald Gage stated this is 50 feet wide; I went by the lines that were already there from the old business. Chairman Travis stated a typical parking space is 9 (nine) ½ x 18 (eighteen). Ed Egan asked how many parking spaces are required. Mr. D'Ambrosio said we need 47 (forty seven) and two of these have to be handicapped. Ed Egan asked how many do you have on this drawing. Cyndi French said the drawing shows 28 (twenty eight) spots.

Attorney Nathan VanWhy stated we all have to keep in mind; we have two (2) businesses here. It's my understanding the Strip Club applied for an area variance previously in the past. The variance was granted and this board agreed then to ignore the second floor. Cyndi French asked is the second floor empty now. Mr. Gage said yes. Nathan VanWhy explained code is 1 (one) spot for every 100 square feet. And the existing Strip Club would have needed 40 plus spaces but they received a variance. Chairman Travis stated he didn't remember the Strip Club ever coming before the board for an area variance. Nathan VanWhy stated there are currently only 28 (twenty eight) spaces and they all belong to the Strip Club. So the bar is actually applying for a 100 percent variance. Mr. Gage stated he has permission from the neighbor Stu to use some of his property which would create about 5 (five) more spots. Chairman Travis stated you need at least 9 (nine) spaces. Bruce Nemcek asked where the entrance to the bar would be. Mr. D'Ambrosio said right in the front. Ed Egan asked if it would have its own restroom. Mr. D'Ambrosio answered yes, it is two separate businesses.

A lengthy discussion followed about the parking spaces, the aerial photograph that shows the existing parking lot and fence that appear to be in the State right-of-way and the entrance and exits which are 50' feet wide and need to be only 35' feet wide. Chairman Travis stated the confusion here is the existing parking spaces are for the strip club, except for the 5 (five) new spots. We need clarity on where the parking will be for the two businesses. I would need documentation from the NYSDOT that you can be in the right-of-way. Mr. Gage said if we have to change our spots, everyone else up and down Court Street should have to also. Mike Maciak explained NYSDOT is now trying to correct this as new people are coming to in front of the Board for approval. Bruce Nemcek asked if we could look a little deeper at the nature of the business. Chairman Travis said I think we need more information. Cyndi French asked if the business was open now. Mr. D'Ambrosio said yes. Cyndi French asked them to also do a survey of how many cars are there and what time of day it is. Chairman Travis said we need to know how many parking spaces exist now and where are they going to get the other 900 square feet needed and some history on the building. Nathan VanWhy stated since we have questions, the board could table this until next month.

Chairman Travis asked the board if anyone had any further questions. Hearing none, Chairman Travis asked for a motion to table the area variance until our next meeting on June 20, 2016.

Motion by Ed Egan and second by Bruce Nemcek to table the area variance tonight with the following conditions until June 20, 2016:

- 1.) Need from Code Enforcement Officer Chad Moran, what are the existing parking is now.
- 2.) Need from Code Enforcement Officer Chad Moran, all history on this building and parking.
Chairman Travis agreed to contact Chad.
- 3.) Need to know where is the additional parking going to be? Need a drawing showing the new spaces.
- 4.) Need Letter from Stu saying you can have the land with the 5 (five) parking spots on it.
- 5) Need letter from NYSDOT saying your existing parking and fence can stay where they are.

Roll Call Vote:	Mike Maciak	Yes
	Ed Egan	Yes
	Cyndi French	Yes
	Bruce Nemcek	Yes
	Duane Travis	Yes

Motion carried.

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OTHER BUSINESS:

Hearing no other business or comments, Chairman Travis asked for a motion to adjourn.

Motion by Cyndi French and second Ed Egan to adjourn the meeting. The meeting was adjourned at 8:20pm.

Respectfully Submitted,

Lori A Garvey, Secretary
Zoning Board of Appeals