

**MINUTES  
CITY OF CANANDAIGUA  
ZONING BOARD OF APPEALS**

**January 19, 2022**

PRESENT:                    Joseph Bader, Chairman                    Roger Brazill  
                                 Carol Henshaw, Vice Chairman                    John Roberts  
                                 Susan Haller    Ryan Wilmer  
                                 Julie Harris

ALSO PRESENT:        Richard E. Brown, Zoning Officer

**ORGANIZATIONAL MEETING**

Mr. Richard Brown, Zoning Officer, called to order the 2022 Organizational Meeting of the Zoning Board of Appeals at 7:01 P.M. (The meeting was held remotely via the Zoom online platform.)

Mr. Brown asked for nominations for Chair. Mr. Wilmer nominated Joseph Bader for Chair. Ms. Haller seconded the motion which was approved by unanimous voice vote (7-0).

Mr. Brown asked for nominations for Vice Chair. Mr. Bader nominated Carol Henshaw for Vice Chair. Mr. Roberts seconded the motion which was approved by unanimous voice vote (7-0).

Mr. Roberts moved to establish the regular meeting on the third Wednesday of each month at 7:00 P.M. Mr. Bader seconded the motion which was approved by unanimous voice vote (7-0).

Mr. Wilmer moved that the Chair be authorized to call Special Meetings as needed. Mr. Roberts seconded the motion which was approved by unanimous voice vote (7-0).

Mr. Bader motioned to adjourn the organizational meeting. Ms. Harris seconded the motion which was approved by unanimous voice vote (7-0).

**CALL TO ORDER:**

Chairman Bader called to order the regular meeting of the Zoning Board of Appeals at 7:01 P.M. (The meeting was held remotely via the Zoom online platform)

**APPROVAL OF MINUTES**

Chairman Bader asked if anyone had any corrections or additions to the Regular Meeting Minutes of December 15, 2021. Mr. Roberts moved to approve the minutes as submitted. Ms. Henshaw seconded the motion, which carried by unanimous voice vote (7-0).

**REVIEW OF APPLICATIONS:**

**ITEM 01**                    **Application #21-420: 230 South Main Street, B & G HOLDINGS LLC, requesting a Use Variance necessary to operate an office in the C-2A Zone District. In accordance with §850-38 of the Zoning Ordinance, offices are not permitted on the ground floor in this district. (Tabled from December 15, 2021)**

Lynnora Sable-Smith, a prospective tenant, with True North Realtors, represented the application.

Chairman Bader noted that the Public Hearing and SEQR were held at the prior meeting.

Mr. Brown referred to a letter submitted by the property owner, Joseph Bell. In that letter, Mr. Bell stated that the space is very small (300 square feet) and it is not possible to remove the wall between 230 and 232 to combine the space to make one larger space because the interior wall between the 2 spaces is block and is a load bearing wall. The only thing we can do to combine the spaces is to cut a couple doorways between the spaces and install heavy lintels to hold up the 2<sup>nd</sup> floor. To do this work is not financially feasible. It would cost approximately \$17,000 to cut the 2 doorways, install the lintels and finish off the drywall and fix the ceiling around the doorways. This price is not taking into account any contingency funds for unknown issues that may be encountered as this is an older building.

Mr. Brown referred to a letter received from the Business Improvement president, Bob Taylor, stating that the BID is adamantly opposed to the variance. It is a great retail location. The BID has worked diligently since the City Ordinance was put into place, requiring office space to turn to retail over 30 years ago. Mr. Brown noted that Jeff Anthony, member of the BID Board of Directors, was present to answer any questions regarding their position on this application.

Chairman Bader noted that the required four-part test was completed at the prior meeting. However, with a new board member, and new information submitted, it may be best to revisit them.

Beginning with question #1: *Show in "Dollars and Cents" that the land in question, if used for any permitted use, will not yield a reasonable return.*

Ms. Harris pointed out that it would take the owner a significant amount of time to recover the \$17,000 cost of combining the two storefronts to create a space large enough for the permitted retail use.

Chairman Bader questions whether a 300 square foot retail store, with no room for storage, would yield a reasonable return.

Mr. Roberts asked for clarification on the size of the space. Ms. Sable-Smith said the overall space is 298 square feet, including an office area and bathroom. Approximately 240 square feet remains for retail space.

Chairman Bader noted the space has been advertised for lease since September 2021.

Regarding question #2: *Show that the hardship is unique and is not shared by all properties in the neighborhood.*

Mr. Wilmer feels the small space makes it somewhat unique. He asked if there are any other small retail spaces within the Business Improvement District. Mr. Brown mentioned 83 South Main Street. That has a similar size space that was denied a use variance to be used for office space. They have recently obtained a retail tenant.

Chairman Bader agreed that the size of the space is rather unique.

Regarding question #3: *Show that the granting of the variance will not alter the essential character of the area.*

Chairman Bader believes a real estate office is similar to a retail store.

Ms. Haller agreed.

Mr. Wilmer mentioned that the 2020 Comprehensive Plan indicates there should be no office spaces in the Business Improvement District. If this use is approved, there would likely be other real estate offices moving in.

Chairman Bader believes each application should be judged on its own merits. Mr. Brazill disagreed.

Regarding question #4: *Show that the hardship is not self-created.*

Ms. Henshaw noted that the lack of size is not self-created. The building was previously constructed.

Mr. Roberts pointed out that the new owner purchased the property knowing the permitted use for the ground floor is retail.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Wilmer moved that the board **Deny** the application for the following reasons:

- #1. The applicant has not demonstrated a lack of reasonable return;
- #3. The requested use variance would alter the essential character of the neighborhood.

Mr. Brazill seconded the motion, which carried with a vote (4-3)

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Voting	NO
Carol Henshaw	Voting	NO
Joseph Bader	Voting	NO

**ADJOURNMENT**

Mr. Wilmer moved to adjourn the meeting at 7:45, seconded by Ms. Harris and carried by unanimous vote (7-0).

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Richard E. Brown, Secretary

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Joseph Bader, Chairman