

**City of Watervliet
Zoning Board of Appeals
Meeting Minutes
July 8, 2026**

Attendance:

- Chairman Frank Gilchrist
- Kayleigh O'Neill
- Michele Jamrosz
- Ken Keefer

Absent: Tom Hulihan

Also in Attendance:

- Melissa Cherubino, General Manager
- Paul LaBoissiere, Code Enforcement

Minutes from the May meeting were approved, motion made by Kayleigh O'Neill, seconded by Michele Jamrosz and approved unanimously.

APPLICATIONS

1. USE VARIANCE 1417 Seventh Avenue

- Steve Martin, 4 Liberty Road, Troy/Brunswick (the "Applicant")
 - When the Applicant purchased the property the prior owners had set up two separate units with exterior access to each unit. The units do not connect inside.
 - There is a 4-car parking lot in back, and a garage, set on a large lot (9,000 SF) that cannot be subdivided due to the layout.
- The Chairman asked if the property, in the assessors code, has been listed as 210 for tax purposes. Paul L., CEO, stated that the property was physically set-up previously as a 2 unit but still coded as a single-family in the assessor's records. He stated that each unit is a two-bedroom unit in the 2600 SF structure.

Chairman Gilchrist asked whether the Applicant was not told it is in the R1 zoning district when the Applicant bought the property. Steve Martin confirmed that he was not informed and he is surprised in retrospect that the mortgage company did not flag it.

However, a hardship would result from converting the building back to a single family because of the necessary work demolishing portions of the interior to gain access between the floors. Doing so for any of the permitted uses will require lead, asbestos and soil testing, abatement and disposal.

In addition, given its size, over 2500 square feet, the home wouldn't conform with neighboring single-family homes, and he would be left with 6 bedrooms, two baths and two kitchens that may only be rented to a large family. The Gas/Electricity are not currently separate, but the Applicant intends to install separate meters. Finally, given the layout of the building and parking lot the Property cannot be subdivided.

SEQRA

Chairman Gilchrist stated that the Project is an Unlisted Action for State Environmental Quality Review Act ("SEQRA") purposes. The Board discussed the standards and found that:

(i) The Project will not create a substantial adverse change in existing ground or surface water quality or quantity since the Project does not involve any site alterations.

The Project will not impair air quality as it does not involve the addition of any activities that will emit industrial exhaust or contaminants.

Traffic projections are minor for one additional tenancy, nor will traffic noise levels increase significantly.

The Project includes only a slight increase in solid waste production that is addressed through placement of additional tipper cans for city removal of solid waste.

(ii) As previously stated, the site is currently developed and so the Project will not remove or destroy any vegetation or fauna. As a developed site, the proposed reuse will not significantly interfere with or adversely impact any wildlife species or habitat area or other natural resources.

(iii) A Critical Environmental Area ("CEA") is defined as "a specific geographic location designated by local or state agencies due to its unique, sensitive, or high-value characteristics, such as exceptional habitats, water resources, or historical significance." New York State Department of Environmental Conservation's (the "NYSDEC") Environmental Assessment Form Mapper lists a Tidal River community on the Project site with Atlantic Sturgeon and Shortnose Sturgeon as endangered or threatened species. Concerns about pollution to their habitat are the reason for the listing. See Attachment B, NYSDEC ERM.

However, as discussed above, the Project does not involve any site redevelopment. Therefore, the Project will not negatively impact any wildlife or plants.

(iv) The Property is a residential use in a residential zoning district and will not negatively impact the community's current plans or goals as officially approved or adopted.

(v) The Project will not impair the character or quality of important historical resources. The Property is not contiguous to any historic properties and there will not be any exterior alterations and all operations will remain within the building. Therefore, the Project will not impair architectural, aesthetic resources or existing community or neighborhood character as it will match the existing residential homes.

As a previously developed site, the Property is also highly unlikely to contain archeological resources nor will the redevelopment Project impact on any archeological resources, including the adjacent English Porcelain Maker in West Troy, Survey number 15SR00717. See Attachment C, CRIS Map.

(vi) The Project will not create a major change in energy usage, as the existing electrical and gas facilities are suitable for the Project.

(vii) The Project will not cause hazardous conditions as it does not introduce industrial facilities, hazardous chemicals or dangerous activities nor is it near a hazardous site. See Attachment D, NYSEC Info Locator Map.

(viii) The Project is an equivalent density to adjacent properties and there will be no alterations to the Property. It is a pre-existing two-story building with a 1,226-square-foot footprint on a 9,000-square-foot lot. Adjacent homes on the same block have a similar lot coverage. A parking lot in the backyard will accommodate tenant vehicles. Therefore, the Project will not constitute a substantial change in the use, or intensity of use, of land.

(ix) The proposed residential units will not encourage more than two units' worth of tenants. Therefore, the Project will not encourage or attract a large number of people to the area.

Based on the foregoing the Planning Board finds that the Project will not have a negative impact on the environment, an environmental impact statement ("EIS") will not be necessary and no further environmental review will be required for the Project. The ZBA adopted the negative declaration for SEQRA purposes by the following vote:

Motion made by: Ken Keefer

Motion seconded by: Michele Jamrosz

Approved Unanimously

Use Variance

General City Law Section 81-b(3)(b) requires the ZBA to consider whether the Applicant has proven that the applicable zoning regulations and restrictions have caused unnecessary hardship. The ZBA made the following findings of fact for each and every permitted use under the zoning regulations for the particular district where the property is located:

(i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence, for each and every permitted use;

Here the Applicant has shown that the Property cannot realize a reasonable return as one of the permitted uses. Single-family homes are permitted in the R-1 Zoning District, as are several community services and institutional uses. The Property is over twice the size of neighboring parcels that contain single-family homes, and the building is 1,000-sf larger than neighboring single-family homes. The Property sold for \$178,500 in 2022 or \$78 per square foot (PSF). Typical single-family homes in the neighborhood sell for at least \$150 PSF or more, but measure 1,000 sf less in building size and sit on half the lot size. See Attachment A, 1352 Seventh Avenue.

The structure was purchased with two residential units already constructed. Redevelopment would involve some demolition for any of the permitted uses, adding up to \$60,000 in costs that would include asbestos and lead testing, removal and disposal. These additional costs would be difficult to recapture through rental income or sale of the Property.

(ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

The Property is unique. It is within the same block as smaller sized lots, and most of these lots contain smaller single-family homes that sell for a higher price per square foot. See Attachment A, 1352 Seventh Avenue. The Property cannot be subdivided, nor can one enter 2nd fl from interior. He Applicant had purchased the Property as a two-unit home.

(iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and

As the Property is pre-existing and the Project will not change the appearance, it would not alter the character of the neighborhood.

(iv) the alleged hardship has not been self-created.

The Applicant's hardship is not self-created, as the prior owner had renovated the structure into a two-unit.

Kayleigh O'Neill moved to approve the use variance subject to the following conditions:

- Applicant must install separate utility meters (spilt systems).
- Snow removal must remain on property.
- Property maintenance must meet the NYS Property Maintenance Code.
- Garbage cans are to be stored to the side or rear of the structure and placed at the curb for collection 4:00 pm the night before pick-up and the Applicant must purchase:
 - up to two 95-gallon garbage tipper cans per Unit
 - Two 65-gallon recycling tipper cans

Ken Keefer seconded the motion which passed unanimously.

2. USE VARIANCE 2114 Broadway

James Fuller (the “Applicant”) owns a 6,534-square foot building on a .15-acre lot at 2114 Broadway (the “Property”). He seeks permission to rent a garage bay to Matt’s Small Engine Repair. Matt’s services home equipment such as lawn mowers, ride-on mowers/tractors, snow blowers, leaf blowers and trimmers. Currently the Property is used as storage for Upstate Wash. It had been rented to a second use previously that continued to store items in the building but vacated the last items in February. The Applicant tried to rent to a mechanic but the size of the garage is too small for a mechanic. He is selective because he wants to avoid clutter of equipment.

Matt’s stores mowers and tractors in the parking lot until he is ready to work on the equipment. He keeps a schedule and these items rotate on a weekly basis as he completed work. Any equipment that must be scrapped is removed that day or next as there are daily rounds of pick-ups by the scrapper.

SEQRA

Chairman Gilchrist stated that the Project is an Unlisted Action for State Environmental Quality Review Act (“SEQRA”) purposes. The Board discussed the standards and found that:

- (i) The Project will not create a substantial adverse change in existing ground or surface water quality or quantity since the Project does not involve any site alterations and the Property is currently completely impervious due to pavement and the building. See Attachment B, NYSDEC ERM.

The Project will not impair air quality as it does not involve the addition of any activities that will emit industrial exhaust or contaminants.

Traffic projections anticipate occasional drop-off of small engine equipment and delivery of parts. This additional traffic is not significant for Broadway which is a functional class that accommodates these traffic levels. Nor will traffic noise levels increase significantly as the Property is within 200-feet of I-787.

The Project includes an increase in solid waste production that is addressed through placement of a dumpster on Twenty Second Street for contracted removal of solid waste. Any hazardous materials – gasoline, oil, cleaning fluids – will be collected and disposed of as required by law.

(ii) As previously stated, the site is currently paved and has been developed so the Project will not remove or destroy any vegetation or fauna. As a developed site, the proposed reuse will not significantly interfere with or adversely impact any wildlife species or habitat area or other natural resources. All equipment will be stored within the building.

(iii) A Critical Environmental Area (“CEA”) is defined as “a specific geographic location designated by local or state agencies due to its unique, sensitive, or high-value characteristics, such as exceptional habitats, water resources, or historical significance.” New York State Department of Environmental Conservation’s (the “NYSDEC”) Environmental Assessment Form Mapper lists a Tidal River community on the Project site with Atlantic Sturgeon and Shortnose Sturgeon as endangered or threatened species. Concerns about pollution to their habitat are the reason for the listing.

As discussed above, the Project does not involve any site redevelopment. The proposed small engine repair shop activity will take place entirely within the existing building. Additional traffic is de minimus. Therefore, the Project will not negatively impact any wildlife or plants.

(iv) The Property is a legal nonconforming commercial use in a residential zoning district. Through the existing residential façade treatment, fencing of the parking lot, landscaping and continued containment of activity within the building it will not negatively impact the community's current plans or goals as officially approved or adopted.

(v) The Project will not impair the character or quality of important historical resources. Although the Property is across the street from two sites listed as eligible for listing on the National and State Registers - Daniel P. Quinn Apartments and Michael J. Day Apartments – there will not be any exterior alterations and all operations will remain within the building.

As a previously developed site, the Property is also highly unlikely to contain archeological resources nor will the redevelopment Project impact on any archeological resources.

The Project will not impair architectural, aesthetic resources or existing community or neighborhood character as it will match the existing residential homes in mass and scaling. The building façade matches the two-story residential structures surrounding the Property to the north, west, east and south. See Attachment C, Photos.

(vi) The Project will not create a major change in energy usage, as the existing electrical and gas facilities are suitable for the Project.

(vii) The Project will not cause hazardous conditions as it does not introduce industrial facilities, hazardous chemicals or dangerous activities.

(viii) The Project is an equivalent density to adjacent properties as there will be no alterations to the Property. It is a pre-existing two-story building with a 3,426-square-foot footprint on a 6,534-square-foot lot. Adjacent homes on the same block are on the property line or have a 50% lot coverage with a parking lot taking up the remainder. Therefore, the Project will not constitute a substantial change in the use, or intensity of use, of land.

(ix) The proposed small engine repair shop will not result in high volumes of customer traffic. Most items are dropped off and picked up by the business owner (lawn mowers, snow blowers). Therefore, the Project will not encourage or attract a large number of people to the area.

Based on the foregoing the ZBA finds that the Project will not have a negative impact on the environment, an environmental impact statement (“EIS”) will not be necessary and no further environmental review will be required for the Project.

The ZBA adopted the negative declaration for SEQRA purposes by the following vote:

Motion made by: Ken Keefer

Motion seconded by: Michele Jamrosz

Approved Unanimously

Use Variance

General City Law Section 81-b(3)(b) requires the Zoning Board of Appeals to consider whether the Applicant has proven that the applicable zoning regulations and restrictions have caused unnecessary hardship. The ZBA found that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence, for each and every permitted use;

Here the property cannot realize a reasonable return as one of the permitted uses due to age of the building, its location within the 100-year floodplain and the historic use of the Property as an automotive repair shop.

The building, constructed in 1950, would require a level 3 renovation for any one of the permitted uses in order to meet the NYS Uniform Fire Prevention and Building Code (the “Uniform Code”). As a result, renovation would require testing and abatement for the presence of lead or asbestos prior to redevelopment. The costs for initial testing alone would add another \$20,000 or more to redevelopment costs. Remediation depends on scope of contamination but can range from \$20,000-\$40,000 to remove and dispose of lead-based paint to tens of thousands of dollars for removal and disposal of asbestos.

The Property is within the 100-year floodplain, requiring additional considerations when redeveloping the first floor. Any mechanical or electrical equipment would need to be raised above the floodplain. As a result, it would be necessary to analyze whether the first floor could be used for anything other than parking vehicles, cutting the use in half.

Based on the automotive repair use, any renovation or redevelopment will also require extensive testing for contaminants in the soil (an Environmental Site Assessment or ESA). The costs for initial property literature research for a Phase I ESA alone would add another \$5,000 to \$10,000. Phase II ESA, testing the soil through borings in multiple locations, can cost \$20,000 or more. Remediation depends on scope of contamination (recognized environmental conditions or RECs) and the proposed use. Some uses may allow capping the soil whereas a residential use may add hundreds of thousands of dollars for soil remediation dependent on the RECs on-site.

Importantly, even the appearance of environmental issues would discourage many purchasers or redevelopers of the Property. Commercial uses pushed to the second floor would also require ADA accessibility, further increasing renovation costs.

(ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

The Property is unique. It is within the same block as smaller lots and most of these lots contain the permitted uses of single family, two-family or multi-family homes. It is one of only two commercial uses within the immediate neighborhood (Francis

Auto Center is the other). The Watervliet Housing Authority is the majority occupancy of this neighborhood within the R3 zoning district.

(iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and

As the Property is a pre-existing commercial use, it would not alter the character of the neighborhood. The building is flat roofed with concrete block construction. However, siding and asphalt roofing shingles have been added to mimic a residential exterior. A fence and arbor vitae have been installed to buffer the appearance of the parking lot. All new materials and vehicles associated with the small engine repair business will be contained within either the building or in the parking lot.

(iv) the alleged hardship has not been self-created.

The Applicant's hardship has not been self-created, having purchased the Property in 2022 as a commercial space with two store fronts it was reasonable to expect a continuation of this occupancy.

Ken Keefer moved to approve the use variance subject to the following conditions:

- No long-term outdoor storage of equipment outside.
- Hours of operation are limited to Monday through Friday 8AM to 8PM. Saturday 9AM to 2 PM.
- Noise limited to indoor operations.
- Outdoors storage only permitted in the parking lot, no working on equipment.
- Prevent spills in parking lot.

Kayleigh O'Neill seconded the motion which passed unanimously.