

**Village of Penn Yan Zoning Board of Appeals**  
**Meeting Minutes November 30, 2020**  
**TRANSCRIBED via ZOOM Recording**  
**7:00 pm**

**PRESENT:** Steve Owens-Chairman, Art Pike, Ruth Davis, Barbara Stewart, Kevin M<sup>c</sup>Loud-VB Liaison, Jamie Kincaid-Code, Ed Brockman-Attorney, Lynn Duryea-Sec’y, Gary Meeks, Ray Spencer, Sarah Davis.

**ABSENT:**

**PUBLIC PRESENT:** Chris Iversen-Developer, Shane Stone, Ryan Destro-BME Engineer.

**NEWS MEDIA PRESENT:** None

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**A MOTION** by Art Pike and a **SECOND** from Barbara Stewart to approve the October 26, 2020 minutes.  
**Art Pike – aye. Barbara Stewart – aye. Steve Owens – aye. Motion carried.**  
Ruth Davis was present after this motion.

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**FIRST ITEM:** Application from Chris Iversen to allow a reduction in the front setback at 131-147 Water Street from 15’ to 0’; a reduction in the parking setback from 3’ to 2’, and a reduction in the building separation at 120 Wagener Street from 25’ to 15’.

Steve – Does everyone have a copy of the variance?

ZBA – Yes.

Steve – Then, do I have a motion to bring the application to the floor?

**A MOTION** by Art Pike and a **SECOND** from Barbara Stewart to bring the application to the floor.

Steve – I’d like to take the variance in three pieces if that’s OK?

Chris – That’s fine. I see that my engineer, Ryan Destro, is trying to join us.

Ryan – I’m here.

Steve – We got your paperwork on your waterfront area project. Got your plot. Which variance would you like to take a crack at first?

Ryan – We could start with the front setback and I’d also like to give you a brief overview of the project, if you’d like and I could also tier my screen, if you’d allow that?

Steve – Yes, that would be fine.

Art – Steve, before we get too far, pictures. We don’t have pictures. I don’t know what it’s going to look like.

Ed – Lynn has that. I saw that she sent them to the planning board.

Lynn – I have a 2’ by 3’ site drawing here but no way I could make copies of it to send to everybody.

Steve – Ryan can you share that on your screen?

Ryan - I need screen permission to share that.

Gary – I’m working on it but since we can’t see you, I don’t know how I can let you share.

Art – I don’t see how we can vote on it if we can’t see it.

Chris – We have pdf we can shoot to you to share with everyone.

Lynn – OK, if that helps you guys, I can email everyone right now.

ZBA – Yes, that will help.

Ryan – I can forward an email with a rendering right now.

Lynn – OK.

Chris held up to the zoom screen an artists’ rendering.

ZBA – OK, there it is. Thank you, Chris.

Steve – So, when we’re looking at the setback that will include the awnings, correct?

Ryan – Correct. Front setback on north side to the sidewalk is approximately 1foot to 2 foot. The proposed structure will have a front step. It’ll be right at the front setback line. Then there’ll be about a foot width from there to the building structure. Similar to the south side of Water Street where the Birkett Landing building is

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right on the front setback. The intent is to create a village streetscape corridor for Water Street. The village was looking for grant and funding for Water Street improvements.

Barbara – Is there going to be a sidewalk?

Ryan – The sidewalk will be replaced since it's pretty beat up right now. It will be in the same place as the one there now.

Steve – The reason you want to put the building up against the sidewalk is also because you have a back constraint, too, is that correct?

Ryan – The site does narrow as you go from west to east so if we pushed the building back any further it would severely limit the possibilities for the development back there.

Barbara – How? If we didn't agree to the setback how would that limit the development?

Ryan – There's a 12 foot privacy wall and that limits the separation of the proposed structures in the back. The two buildings fronting Water Street will be an 8-unit and a 6-unit shown on the rendering you have. Then there will also be a 2-unit structure fronting on Wagener Street.

Steve – I see where you have the line for the 15 foot setback.

Ed – Without that setback the project would not be viable.

Steve – Yes, for dollars, without that setback it would change the size of the units and not be large enough and it wouldn't change the character of the neighborhood. The other buildings are right on the property line.

Chris – Right.

Ryan – I should mention the project is in the Village Center District, the VC District, which has no front setbacks. 15' front setbacks are governed by the Water Street Overlay District and that does not jibe with the village's intent to bring the building closer to the front. We met with the village several times. We met with them early last year to review the Water Street improvements. We based our site plan design around sketches provided to us by the village. We did have our first meeting with the planning board and the planning board referred us to this board for the requested variances.

Steve – Jamie, are there any other concerns with them building right on the edge of the property,

Jamie – No, if you look at all the other buildings on that line, they're all already on that line.

Steve – No, I mean are there any safety concerns with the road or anything there? Any danger with traffic flow or things of that nature?

Ed – The planning board looked at the driveway with traffic exiting onto Water Street with regard to turning radius and visibility coming out onto Water Street. In order to rectify both problems the planning board requested, and Mr. Iversen agreed, to change the driveway to a one-way in from Water Street and exiting onto Wagener Street.

Barbara – Is this a private driveway or for the public?

Ryan – Just privately owned and maintained. Other than that it will cross the sidewalk. Cars cannot exit onto Water Street since the buildings will have a 0-foot setback.

Chris – This is not considered a public thoroughfare.

Steve – Does anybody have any other concerns? Is Water Street going to remain a two-way street?

Ed – I talked to Tom Schwartz he indicates improvements to that street will not include widening or a change to one-way. Another issue resolved about the Water Street setback is no need for parking on Water Street right-of-way. It gives enough room for all parking in parking lot.

Ryan – There are 29 spaces on the site which is just under 2 spaces for each unit.

Steve – Required spaces is 19. So, they have ample parking. Any other questions for the front setback variance?

Ruth – Sarah says there used to be a garage on the property. I have a question about nasty stuff buried there.

Steve – All cleaned up when the prior owner owned it. He remediated soil contamination a number of years ago. Dug out barrels and had the soil tested.

Barbara – Something on file that says it's been cleaned up.

Ed - The code office would have something.

Chris – That is correct. We had the soil tested as well, before we purchase the property.

Ed – Do you have a copy of the environmental audit, Chris?

Chris – Yes, Phase I and Phase II.

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**The Board then conducted the Balance test for the front setback and from the application they found;**

Benefit could not be achieved by other means since it would involve shifting the building footprint resulting in the loss of rear greenspace required for the development.

The 0' setback would not cause an undesirable change in the neighborhood character or to nearby properties and was compatible with the Water Street Corridor (WSC) Overlay District streetscape plan.

The request was not substantial.

There would be no adverse physical or environmental effects by allowing a 0 foot front setback.

The alleged difficulty had not been self-created due to limitations associated with the property.

**Art Pike – aye. Ruth Davis – aye. Barbara Stewart – aye. Motion carried.**

**Variance Granted for a 0-foot front setback.**

Steve – Second one. A variance will be required to reduce the parking setback from 3' to 2'.

Ryan – It's basically referring to the northern portion of the site where the property narrows and in order to meet the village's drive-aisle width and the east & west buffers we're requesting a setback variance on the western property line from 3' to 2'. This is also directly adjacent to the Lyons National Bank parking area. There's no residential building or commercial building. It's just a parking area.

Steve – Is it just going to be left all blacktop or will there be any greenspace or buffer between them?

Ryan - There is existing greenspace along the east side of the LNB parking area. There will be a 2' green strip left between both parking areas.

Steve – The parking setback, if it was the 3' required, it would impede the in-and-out for Wagener Street?

Ryan – Yes.

Steve – Any safety issues, Jamie?

Jamie – If they moved it back any further it would not meet the requirements for in-and-out.

Chris – Also, any closer and it would require us to narrow an already narrow building on that end. It would make the interior layout very difficult.

Steve – It's only 1 foot. Any other questions or comments?

**The Board then conducted the Balance Test for the parking setback and from the application they found;**

Benefit could not be achieved by other means since there needed to be adequate space for vehicles to approach development's egress point when parking spaces are occupied.

The 2-foot setback would not cause an undesirable change in the neighborhood character or to nearby properties.

The request was not substantial.

The reduced setback would not have any adverse physical or environmental effects.

The alleged difficulty had not been self-created due to configuration difficulties unique to the property.

**Art Pike – aye. Ruth Davis – aye. Barbara Stewart – aye. Motion carried.**

**Variance Granted to allow a 2-foot west side-setback for a parking lot that would be adjacent to the neighboring property parking lot.**

Steve – OK, the last one. A variance to reduce the building separation from 25' to 15'.

Ryan – Where the two unit is proposed fronting Wagener Street, that will replace the exiting building. One thing we'd like to point out is that the existing building has a separation right now of 13 feet. We are proposing

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to remove that building and construct the new one with a greater separation of 15' from the neighboring building. The architect will also improve the fire rating on the east side of the new structure.

Steve – The building on Wagener will be a 2-unit and have a 15' separation?

Chris – Yes.

Barbara – So, you'll remove the house that's there now?

Ryan – Yes, that's the intent.

Steve – Will there be 2 units there or one long one?

Chris – One long one. There will be two dwellings in it. One on the north half and one on the south half.

Townhouses, back-to-back. The separation is between the new 2-unit and the building on the neighboring lot.

Ryan – The site has a pre-existing, non-conforming separation now. Also, front setback will be compliant with village code.

Steve – 25-foot separation seems too much.

Barbara - That's too high. We need to re-visit that code.

Steve – Questions? You'll take care of all the water runoff with gutters and all that so it doesn't infringe upon any of the neighbors? Is that correct?

Ryan – Yes, this project will comply with all the DEC storm water management requirements.

The Board then conducted the Balance Test for **building separation** and from the application they found:  
Benefit could not be achieved by other means due to the constricted configuration of the lot.

Reducing the building separation to 15' would not cause an undesirable change in the neighborhood character or to nearby properties since the new construction would actually increase the current separation (on a building to be removed) by 2 feet.

The request was not substantial.

There would be no adverse physical or environmental effects with a 15' building separation since the developer planned to augment fire safety measures.

The alleged difficulty had not been self-created since they were attempting to retrofit development concept into a tight space.

**Art Pike – aye. Ruth Davis – aye. Barbara Stewart – aye. Motion carried.**

Variance Granted to allow a 15 foot building separation between new construction at 120 Wagener Street and the building on adjacent lot to the east.

**OTHER BUSINESS:**

Steve – There's on other piece of business before we take off. Everyone got in their packet their paper to fill out for possible financial conflicts and things of that nature?

Ruth – I lost mine. Would Lynn send me another one? Where do I bring it?

Lynn – Drive through.

**A MOTION** by Art Pike and a **SECOND** from Barbara Stewart to adjourn the meeting at 7:45pm.

**Art Pike – aye. Ruth Davis – aye. Barbara Stewart – aye. Motion carried.**

Submitted by Secretary:

Lynn Duryea