



## Zoning Board of Appeals

Department of Planning & Community Development  
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Shawyn Patterson-Howard  
Mayor

Elvira Castillo  
Acting Chair

### ZONING BOARD OF APPEALS MEETING/HEARING AGENDA

A work session of the Zoning Board of Appeals will be held on **Tuesday, April 19, 2022, at 6:00 PM** via ZOOM (<https://zoom.us/>). The regular meeting of the Zoning Board of Appeals will be continued at 6:30 PM on April 19, 2022, via ZOOM at which time the Board shall consider the following:

#### ITEM #1 ROLL CALL

#### ITEM #2 APPROVAL OF MINUTES

- March 15, 2022 minutes

#### ITEM #3 Continued Public Hearings

##### **3.1 Calendar #1760-Z 259 South Fulton Avenue (Section 169.24, Block 4039, Lot 147) located in the RMF-10 Zoning District.**

*Note: There has been no additional information or renderings provided from the Applicant.*

Applicant is Victor Castillo, the architect, who is requesting an area variance for lot width and frontage which is 66.91' whereas 75' is the minimum required in the RMF-10 zoning district. The owner of the 10, 338 sf vacant subject property is Uke Lajqi. The subject property is located at 259 South Fulton Avenue on the east side of South Fulton Avenue opposite Monroe Street. The width of the existing lot is 66.91' with a depth of 152.45' on the north side and 158.10' on the south side of the lot.

The adjacent two lots to the north of the subject property are single family residences. Just north of these residences is a six-story apartment building at the

corner of Amsterdam Place and South Fulton Avenue. All of these properties are in the RMF-10 district. Adjacent to the south of the site are four single family residences and a five-story apartment building at the corner of South Fulton and West 4<sup>th</sup> in the RMF-10 district.

Across from the subject property are single story commercial stores in the Neighborhood Business (NB) district on the west side of South Fulton Avenue. Just south of these stores and directly opposite the site is a four-story apartment complex on a 2+ acre property in the RMF-10 zone. To the back of the subject property is the rear yard of an apartment building on Amsterdam Place and an unopened paper street (New Street).

The only area variance that is required is for the lot frontage and width. The rest of the subject property is zoning compliant with the RMF-10 zoning. If the applicant is successful in obtaining an area variance, he proposes to construct a multi-family building containing 8 dwelling units with the required 16 parking spaces. The first floor will contain the parking for the project. The second and third floors would contain four units each. The new building would be 3 stories at 30'. This is below the 42' maximum height allowed in the RMF-10 district. A new driveway (20' width) and curb cut would be installed. The front yard would be setback 20' per code. A 3' landscape perimeter will surround the entire site except for the driveway. Application would require site plan review from the Planning Board as well as ARB review and approval.

ZBA confirmed the proposed action as a Type II action at its February 15, 2022, meeting.

### New Public Hearing

#### 3.2 Calendar #1749-Z 339A - 341 North High Street (Section 165.45, Block 1094, Lot 43) located in the RMF-10 Zoning District.

Applicant is proposing the existing 2 story office and industrial structure to be converted into residential and office use with a third-floor addition. The second floor will be converted into 6 apartments and 4 apartments will be provided on the 3<sup>rd</sup> floor. The subject property is in the RMF-10 zoning district. The subject property has undersized frontages along North High Street and Oakley Place.

There is an access easement to the parking lot for the property from West Lincoln Avenue. There is also 24' driveway easement from North High Street leading to small parking area. The structure is primarily constructed along interior property lines. The existing parking is 9 spaces with 7 spaces off Oakley Place and three spaces provided off of North High Street. This is an existing non-conformity with no

change in the degree of non-conformity. The previous use required 25 spaces and the proposed use does not increase the required parking.

The original letter from Michael Zarin, special counsel to the City Council, dated March 30, 2021 was submitted to the ZBA. The letter indicates that *“It has become apparent, upon further review, that there does not appear to be any relief under a zoning amendment that can be provided for this project., and relief can be more appropriately obtained through dimensional variances from the Zoning Board of Appeals.”*

The Applicant is requesting several area variances under the following section of the Zoning Code:

- lot coverage: 50.9% - required 40%
- impervious surface: 100% - required 10%
- lot area per dwelling unit: 1,317 sf -required 2,250 sf
- front yard setback: 0 ft – required 20 ft.
- side yard setback: 0ft – required 15 ft
- Rear yard setback: 0 ft – required 20 ft

Applicant’s Attorney, Mr. Jack Adesso, has addressed the specific criteria for the requested area variances in the ZBA application.

**SEQRA Determination:** The proposed action is a Type II action based on 617.5(c)(16) *“granting of individual setback and lot line variances and adjustments”*. Based on the *SEQRA Handbook*, this section covers all variances for setback and lot line requirements including front, side, back, width, and depth. In this item, “individual” denotes one project on one lot.

### **New Public Hearing**

#### **3.3 Calendar #1763-Z 356 South 10<sup>th</sup> Avenue (Section 165.82, Block 3026, Lot 13) located in the RMF-6.75 Zoning District.**

Applicant is proposing to reconstruct the fire-damaged 3 family, 3 story detached residence located at 356 South 10<sup>th</sup> Avenue in the RMF-6.75 zoning district. The zoning allows the current use which is multi-family dwellings not to exceed three units.

The Applicant is seeking an area variance under §267-11 D.2: *“Should a building or structure, the use of which, or the use of a portion of which, is nonconforming or which is dimensionally nonconforming, be destroyed or damaged by any means to an extent of 50% or less of the replacement cost of the entire building or structure used in connection therewith at the time of the reconstruction, it may be reconstructed and any*

*accompanying nonconforming use continued, provided that the reconstruction is commenced within one year of the date of such damage and completed within two years of said date, and further provided that it shall be reconstructed in accordance with a plan approved by the Board of Appeals on Zoning so as to result, where reasonable, in greater conformity with this chapter.”*

The subject property is located on the north side of South 10<sup>th</sup> Avenue, one parcel to the east of West 5<sup>th</sup> Street. The Subject residence is a 2 ½ story cellar frame building on a 3,300-sf parcel. Property is 33’ frontage and 100’ depth. The adjacent house to the west also has frontage of 33’ along South 10<sup>th</sup> Avenue. All nonconforming dimensions were existing prior to the fire damage. None will be increased. The dwelling will be rebuilt on its existing footprint. Applicant has addressed the specific criteria for the area variance in the application.

**SEQRA** – The proposed action is a Type II action based on 617.5(c)(11) “construction or expansion of a single family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections” For example, where a building lot has already been approved, then even when a single-,two-, or three-family residence requires one or more additional approvals, such as site plan approval or zoning variances from a local board, or other permits such as a DEC natural resources permit (freshwater wetlands, tidal wetlands, stream protection, etc.), no further review under SEQR is required (*SEQRA Handbook, 4<sup>th</sup> ed. DEC 2020, 31*).

### **New Public Hearing**

#### **3.4 Calendar #1764-Z 219 Tecumseh Avenue (Section 165.82, Block 4041, Lot 19) located in the R2-4.5 Zoning District.**

Applicant is applying for three area variances in order to subdivide the subject property into two lots. The subject property consists of 8,000-sf (80’ x 100’) which is proposed to be subdivided into two 40’ x 100’ lots. Lot 19A is occupied by an existing residence at 219 Tecumseh Avenue. The existing 2,006-sf residence was built in 1903. Lot 19B will be vacant and used for the development of a new two-family residence. The subject property is an interior lot in the two-family R2-4.5 zone. It is on the east side of Tecumseh Avenue located between East Fourth Street and Beekman Avenue. Lot 19B has a significant tree (larger than 8” (DBH) in the middle of the parcel. The existing residence on Lot 19 does not indicate any off-street parking. It should be noted that the remaining lots on Tecumseh all have driveways to accommodate off-street parking.

**Review of widths/frontages for lots along Tecumseh Avenue**

**This review was conducted by staff of the Planning Department. On the east side of Tecumseh Avenue, the two adjacent properties to the north of the subject property and the five properties to the south all have a 40' lot width and frontage. This represents 88% or seven lots out of the eight interior lots on the east side of Tecumseh Avenue. The remaining lot has 65' frontage. On the west side of Tecumseh, there are eight interior lots with four lots having 40' frontage or 50% of the interior lots. There is one lot at 224 Tecumseh opposite the vacant portion of the subject property which has a double lot with 100' frontage. The remaining three lots on the west side have frontages of 50', 60' and 64'.**

**Area Variances**

**Applicant is requesting the following area variances:**

- 1) Lot Width and Frontage of 40'-0" where minimum of 50' is required***
- 2) Lot Area of 4,000 S.F. where 4,500 S.F. is required***
- 3) Lot Area per dwelling unit of 2,000 S.F where Lot Area per Dwelling Unit of 2,250 S.F. is required***

**Applicant has addressed the specific criteria for the area variance in the application.**

**SEQRA – The proposed action is a Type II action based on 617.5(c)(11) “construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections” For example, where a building lot has already been approved, then even when a single-,two-, or three-family residence requires one or more additional approvals, such as site plan approval or zoning variances from a local board, or other permits such as a DEC natural resources permit (freshwater wetlands, tidal wetlands, stream protection, etc.), no further review under SEQR is required (*SEQRA Handbook, 4<sup>th</sup> ed. DEC 2020, 31*).**

**Note:** Work Sessions will be open to the public but closed to public participation subject to the Open Meetings Law, [Section 105 of New York State Public Officers Law, Article 7].

**Note:** Items listed on the agenda are subject to change and amendments and/or additions may be placed on the agenda

**Upcoming Dates**

- **TUESDAY, May 17, 2022, at 6:00 pm for ZBA Work Session**
- **TUESDAY, May 17, 2022, at 6:30 pm for Regular Meeting of the Zoning Board of Appeals**

Marlon Molina 2nd Deputy Planning Commissioner

cc: Shawyn Patterson-Howard, Mayor  
Chair, Planning Board  
James Rausse, Planning Commissioner  
Building Commissioner  
Corporation Counsel  
City Clerk  
Lobby