



CITY OF ALBANY
DEPARTMENT OF DEVELOPMENT & PLANNING

GERALD D. JENNINGS
Mayor

MICHAEL J. YEVOLI
Commissioner

BOARD OF ZONING APPEALS

Wednesday, February 13, 2013
ACTIONS TAKEN

Members Present: Apostol; Cronin; Moran; Ray; Tucker-Ross

 Mayor's Office of
Energy & Sustainability
City of Albany, NY
21 Lodge Street
Albany, NY 12207
518.434.2532
(fax) 518.434.9846
sustainability@ci.albany.ny.us

ECONOMIC DEVELOPMENT
21 Lodge Street
Albany, NY 12207
518.434.2532
(fax) 518.434.9846
development@ci.albany.ny.us

**NEIGHBORHOOD &
LONG-RANGE PLANNING**
21 Lodge Street
Albany, NY 12207
518.434.2532
(fax) 518.434.9846
albany2030@ci.albany.ny.us

LAND USE PLANNING
*Board of Zoning Appeals, Planning
Board, or Historic Resources Commission*
200 Henry Johnson Boulevard
Albany, NY 12210
518.434.5251
(fax) 518.434.5219
zoningb@ci.albany.ny.us
planning@ci.albany.ny.us

**ALBANY COMMUNITY DEVELOPMENT
AGENCY**
200 Henry Johnson Boulevard
Albany, NY 12210
518.434.5265
(fax) 518.434.5242
communitydevelopment@
ci.albany.ny.us

Case # 6-12, 3071

The case of Capital South, LLC c/o CSArch regarding the premises located at 201 Warren Street AKA 1-2 Lincoln Square requesting an Amendment to a previously approved Area Variance pursuant to §375-26 and §375-185 of the City of Albany Zoning Ordinance allowing for the construction of a three (3)-story, 17,000 +/- square foot educational campus center with 58 off-street parking spaces. The applicant seeks to amend its proposal to decrease the number of off-street parking spaces provided to 25. A minimum of 99 off-street parking spaces are required to support the proposed use per the specifications of the City Zoning Ordinance.

Approved
Vote: 5-0

Case # 8-12, 4019

The reapplication of The Addictions Care Center of Albany, Inc. regarding the premises located at 115 Ontario Street requesting a Special Use Permit pursuant to §375-23, §375-27 and §375-74C of the City of Albany Zoning Ordinance to allow for the conversion of office space to 14 single-room occupancy (SRO) dwelling units. The Board may amend, rescind or otherwise change its decision if a reapplication reveals relevant facts, information or circumstances not available to the Board prior to its initial decision.

Approved
Vote: 5-0

Case # 11-12, 4053

The case of Robert Savoca d/b/a Waterworks Pub c/o Stephen G. DeNigris, Esq. regarding the parcel located at 76 Central Avenue appealing a decision of the City Clerk pursuant to §111-69F and §111-73 of the City of Albany Amusements Ordinance requesting removal of conditions requiring live entertainment to cease at 12PM on weeknights and 2AM on weekends, and restricting those under 21 years of age from entering the premises after 11PM. The City Clerk has the authority to condition the issuance of a cabaret license for the purpose of minimizing adverse impacts that it may have upon the community and as is directly related to the preservation of the public interest and health, safety and welfare of the citizenry.

Vote: 3-2; Opposed: Cronin; Ray.
Motion Does Not Carry

Case # 12-12, 4058

The case of Kasim Kurd / Dino's Pizza & Pasta, Inc. c/o Linnan & Fallon, LLP regarding the premises located at 420 Madison Avenue requesting Special Use Permits pursuant to §375-27F, §375-75A and §375-75C of the City of Albany Zoning Ordinance to allow for a +/- 500 square foot expansion of a take-out and delivery restaurant with proposed hours of operation until 3:00AM, Monday – Thursday, 5:00AM, Friday – Saturday and 2:30AM, Sunday. A new special use permit is required for any expansion of an existing special permit use and any business in the C-1 Neighborhood Commercial zoning district that is open between the hours of 11:00PM and 6:00AM is required to obtain a special use permit.

Approved w/Conditions

Vote: 4-1; Opposed: Moran

CONDITIONS:

- **Hours of operation shall be limited to 4AM, Friday – Saturday.**

Case # 1-13, 4061

The case of Virginia Romano regarding the premises located at 408 Spring Street requesting a Use Variance pursuant to §375-26 and §375-64A of the City of Albany Zoning Ordinance to allow for the change of use from a two (2)-family dwelling to a four (4)-unit apartment building. The proposed four (4)-unit apartment building is not a permitted use in the R-2A One- and Two-Family Residential zoning district.

Approved w/Conditions

Vote: 5-0

CONDITIONS:

- **The use shall be brought in to compliance with all applicable building code regulations.**
- **The approval is temporary for a period of one (1) year, at which time the Board will revisit the case to ensure compliance.**

Case # 1-13, 4062

The case of Anthony Farina c/o Hershberg & Hershberg regarding the premises located at 90 South Swan Street AKA 244 State Street requesting a Use Variance pursuant to §375-26 and §375-72A of the City of Albany Zoning Ordinance to allow a newsstand (grocery store) to occupy a +/- 585 square foot former office space on the ground level of the structure at the premise in question. The proposed grocery store is not a permitted use in the C-O Commercial Office zoning district.

Interpretation (Favorable)

Vote: 4-1; Opposed: Moran

Case # 1-13, 4064

The case of Ryan Jankow c/o Harris A. Sanders Architects, P.C. regarding the premises located at 259 Lark Street requesting a Special Use Permit pursuant to §375-27 and §375-72C of the City of Albany Zoning Ordinance to allow a restaurant to occupy a +/- 3,330 square foot commercial space on the ground level of the structure

at the premise in question. The proposed restaurant is a special permit use in the C-O Commercial Office zoning district.

**Vote: 3-2; Opposed: Cronin; Moran.
Motion Does Not Carry**

Case # 1-13, 4066

The case of MMHD, LLC regarding the premises located at 320 First Street requesting a Use Variance pursuant to §375-26, §375-64A and §375-90A of the City of Albany Zoning Ordinance to allow for the reestablishment of three (3) dwelling units in a vacant residential structure that previously contained as many as four (4) dwelling units. The proposed three-family dwelling is not a permitted use in the R-2A One- and Two-Family Residential zoning district and no nonconforming use may be reestablished after it has been discontinued or vacated for a period of 180 days or more.

**Approved
Vote: 5-0**

Case # 1-13, 4067

The case of Jacqueline Robinson regarding the premises located at 19 Lexington Avenue requesting a Use Variance pursuant to §375-26 and §375-64A of the City of Albany Zoning Ordinance to allow for the reestablishment of three (3) dwelling units in a vacant building. The proposed three (3)-family dwelling is not a permitted use in the R-2A One- and Two-Family Residential zoning district and no nonconforming use may be reestablished after it has been discontinued or vacated for a period of 180 days or more.

**Approved
Vote: 5-0**

Case # 1-13, 4069

The case of Rob Field regarding the premises located at 431 New Scotland Avenue requesting a Use Variance pursuant to §375-26 and §375-64A of the City of Albany Zoning Ordinance to allow conversion of a +/- 5,000 square foot former rectory to an office space and two (2) residential dwelling units. The proposed office space and two (2) residential dwelling units is not a permitted use in the R-2A One- and Two-Family Residential zoning district.

**Approved
Vote: 5-0**

Case # 2-13, 4070

The case of Golub Corporation c/o Signworks Neon Corp. regarding the premises located at 1 Russell Road requesting an Area Variance pursuant to §375-26 of the City of Albany Zoning Ordinance and §307-12A of the City of Albany Sign Ordinance to allow for the installation of an 11' x 17' electronic message board on the rear façade of the building. Copy-change wall signs are permitted only on theaters.

**Approved w/Conditions
Vote: 5-0**

CONDITIONS

- **The electronic message board shall be limited to on-premises advertising only.**

Case # 2-13, 4071

The case of Biernacki Property Management, Inc. c/o ABD Engineers & Surveyors regarding the premises located at 8 Rapp Road requesting a Use Variance and Parking Lot Permit pursuant to §375-26, §375-63A and §375-174 of the City of Albany Zoning Ordinance to allow for the construction of a +/- 2,850 square foot office building with a ten (10)-space accessory parking area. The proposed office building is not a permitted use in the R-1B Single-Family Medium-Density Residential zoning district and Board authorization is required for the parking, storage or garaging of more than four vehicles.

Denied

Vote: 5-0