



Zoning Board of Appeals
Department of Planning & Community Development
City Hall - Roosevelt Square
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Shawyn Patterson-Howard
Mayor

Michael Justino
Chair

**ZONING BOARD OF APPEALS
MEETING/HEARING
AGENDA
JUNE 20, 2023**

A work session of the Zoning Board of Appeals will be held on Tuesday, June 20, 2023, at 6:00 PM in the Reginald Lafayette Committee Room, Room 204, on the second floor of City Hall. The regular meeting of the Zoning Board of Appeals will be continued at 6:30 PM. Applicants and members of the public will be permitted to attend and make public comment via in person and Zoom attendance.

ITEM #1 ROLL CALL

ITEM #2 APPROVAL OF MINUTES

- April 18, 2023

ITEM #3 PUBLIC HEARINGS

New Public Hearing

3.1 Case # ZB-23-1; ZB-23-3: 125 Orchard Street (Section 165.23, Block 2010, Lots 10, 11, 12 & 18) in the R1-4.5 District.

Regarding public notice, the Board has received:

An Affidavit of Mailing stating that on June 7, 2023 notice was mailed to property owners within a 500-foot radius of the site;

An Affidavit of Sign Posting stating that on June 6, 2023 a sign was posted at the site giving notice of the Zoning Board of Appeals' June 20, 2023 meeting. The Board also received photographs showing that the sign posting on the property has been updated providing notice of today's meeting.

Proof of publication was submitted showing that notice was published in the Journal News on June 8, 2023 and June 9, 2023.

The owner, Devonia Green LLC, is being represented by Shahin Badaly, PE. The Applicant is requesting area variances to construct a townhouse development of 16 attached units with 32 parking spaces in garages under the townhouses plus 2 visitor parking spaces (total of 34 parking spaces). The Applicant is also requesting a use variance for the townhouse development.

The property is the former Gherardi Greenhouses and is 34,680 sf. Property is still covered with existing greenhouses. It is a through lot within the One-Family R1-4.5 zoning district along Douglas Place between East Devonia Avenue and Orchard Street. The zoning to the west is Two-Family R2-4.5.

The proposed townhouses are attached single-family units. The townhouses will be 3 stories with height of 29'.25" where 35' is the maximum allowed. Applicant will be constructing a single-family residence on an adjacent parcel owned by the applicant fronting on East Devonia Avenue.

The property borders the Pennington School to the east in R1-4.5 district and is around the corner from St. Peter and Paul & St. Ursula RC Church and the Montford Academy (High School) in the former parish school attached to the church.

Applicant has provided site plan and zoning compliance table, survey, photographs of existing property and surrounding area, survey, elevations, floor plans, Short Form EAF, violation/CO search, and a Statement of Principles for the requested area variances.

Regarding the Use Variance, Applicant has provided the following:

- **Financial evidence in support of reasonable return with townhouse development instead of single-family homes.**
- **Owner's situation is unique only to the subject property. The property has substantial rock across its entirety. The cost to build the structure because of the topography and rock presents the owner with an unnecessary hardship, unique only to the subject property.**
- **Requested use variance will not alter the essential character of the locality as the subject property is nearby multiple district zones that permit a 2-family, 3-family and townhouse dwellings to be constructed.**
- **Townhouse residences will comply with all zoning regulations of the RMF-6.75 townhouse zoning district; no area or use variances would be required for the proposed residences within that zoning district. As the proposed townhouse residences will comply with all townhouse zoning regulations, it is in reasonable harmony with the intent of this chapter. The requested variance to construct townhouse residences within a one-family district is the minimum variance needed to afford relief. There is no other feasible method to develop the property and yield a reasonable return without building townhouses.**

The PE Report indicates the need for three area variances. The area variances requested in the application and zoning compliance table show the following area variances: lot coverage, impervious surface coverage, and rear yard setback. Note: Applicant's Site Plan drawing shows compliance with the 20' rear yard setback on both sides of the property.

Area Variances Requested:

Item	Required / Permitted	Proposed	Variance Requested
Lot Coverage §267-1:1	35%	44.3%	9.3%
Impervious Surface §267-1:1	50%	62.1%	12.1%
Rear Yard Setback §267-1:1	20 feet	5 feet	15 feet

SEQRA Determination – The proposed action is a “Type II” action under SEQRA based on DEC 617.5 (c) (17) “*granting of an area variance for a single-family, two-family or three-family residence*” therefore, ending the SEQRA process.

However, the Use variance would be classified as an Unlisted Action under SEQRA. The ZBA would need to establish itself as the Lead Agency for the environmental review of this proposed action. The application has been referred to Westchester County Planning for GML review.

The application has been sent to the Fire Department, the Police Department, the Water Bureau, and DPW for comments.

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, July 18, 2023, at 6:00 pm for ZBA Work Session**
- **TUESDAY, July 18, 2023, at 6:30 pm for Regular Meeting of the ZBA**

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