

June 19, 2008
Zoning Board of Appeals Minutes
Oswego Town Hall

Chairman: Greg Auleta
Board Members: Timothy Anderson, Robert Baker,
Robert Dexter, Debra Jaskula
Attorney to the Board: Kevin Caraccioli
Secretary: Joyce Molinari

Call to Order: The meeting of the Town of Oswego Zoning Board of Appeals was called to order at 7:05 p.m. by Greg Auleta, Chairman, with a welcome to Joyce Molinari as the new Secretary.

Attendance: Those in attendance were:

| | |
|----------------|-------------------------------|
| Greg Auleta | Chairman |
| Tim Anderson | Member |
| Robert Baker | Member |
| Robert Dexter | Member |
| Debra Jaskula | Member |
| Allison Nelson | Representing Kevin Caraccioli |
| Joyce Molinari | Secretary |

Approval of May 15, 2008 Meeting Minutes: Debra Jaskula moved that the minutes be accepted. There were no objections or changes. Therefore, Greg Auleta noted that they would be considered as having been passed.

New Business: At 7:08 p.m. Greg announced that the meeting would be recessed until 7:20 p.m., the published time for the Public Hearing of the Richard Bowman Use Variance Application. In addition, Greg ruled that it would be inappropriate to change the order of business to consider the United Group's Application at an earlier time.

The meeting was called back to order at 7:20 p.m., with Mr. Bowman explaining his request for a Use Variance to turn his house into a lodging business. Questions were asked concerning the number of rooms, to what extent Mr. Bowman would be on site, the amount of parking, the number of patrons at one time, and the zoning (R-2).

Greg Auleta then explained to the Board that Mr. Bowman's application had been submitted to the Oswego County Planning Office, which, in a letter signed by Mr. Weiss, had recommended disapproval of the application, as there was no documentation submitted to justify a Use Variance, as required by Section 239 I & m of the General Municipality Law.

Greg went on to explain that Joyce Molinari had contacted him, by e-mail, explaining that, as she was new to the position of Secretary and did not understand exactly what documentation was needed, contacted Mr. Weiss for clarification and found that he needed information from Mr. Bowman concerning his financial need for the variance. Joyce then took the needed document to the County Planning Board, asking for another review and letter of recommendation by the time of this meeting. Mr. Weiss explained that that would not be necessary, as the ZBA could simply vote to grant the variance by a majority vote plus one.

The Board then discussed where this would fall under "conditional uses". It was explained that under Article IV, Section B, it does not fit any of the land uses, and, therefore would require the variance, and for purposes of the application would be referred to as a "bed and breakfast". Next, signage was discussed, with the explanation that the present zoning code

allows for a sign no bigger than two square feet. It was agreed that a special condition would be made with this variance to allow a sign no bigger than two feet by four feet.

A resolution was then made by Tim Anderson to grant a Use Variance in R-2 for a bed and breakfast, not to exceed four adults and two children at one time and also a Use Variance for a sign not to exceed two feet by four feet, with illumination not to exceed 150 watts of white light. As part of the resolution, in order to specify why the ZBA is overriding the disapproval of the County Planning Board, Greg Auleta stated that it is "...because of what we believe is merely an inadvertent mix-up of the distribution of documentation and that the County Planning Board did not receive adequate documentation that Mr. Bowman had actually submitted but was not transmitted to the County Planning Board." The resolution was seconded by Robert Baker.

Joyce Molinari called the vote, which was as follows:

| | |
|---------------|-----|
| Greg Auleta | Yes |
| Tim Anderson | Yes |
| Robert Baker | Yes |
| Robert Dexter | No |
| Debra Jaskula | Yes |

The Resolution for a Use Variance for Richard Bowman passed.

Old Business: Request for a Height Variance by United Group.

Jeff Smetana reported that at the Planning Board meeting on Monday, June 16, 2008, United Group did receive the SEQR Negative Declaration, which passed unanimously.

Discussion followed concerning the Oswego Town Fire Department's concerns with buildings of this height and how they will deal with it in the future, including the fact that the developer has agreed to contribute a portion of the cost of eventually purchasing a ladder truck. Therefore, the Fire District has no issue at this point.

Allison Nelson clarified that it was a **Conditioned** Negative Declaration that was issued by the Planning Board "...that has to be prepared and published in the Environmental Notice Bulletin for the State. There is a 30-day comment period from the public after the date of publication. If any person or agency comes forward and has comments that the Planning Board did not consider a specific environmental factor that they should have, then the Planning Board may have to rescind the Conditioned Negative Declaration and reconsider any environmental impacts that they have not considered. But, assuming that the 30-day comment period passes and nobody comments, then the Conditioned Negative Declaration stands."

Next, Greg Auleta entered into the verbal record, through the recording being made of the proceedings, that "at, my request, I called upon our counselor, Kevin Caraccioli, to draw up a resolution that would allow the consideration of the application by the United Group, in language which is highly detailed for our typical resolutions, but, in the interests of making sure that we have covered all of the bases and to make sure that the Town and the appropriate agencies are in the best position to consider a legal challenge by either the United Group, were we to turn this down, or by residents of the Town, that the language and all of the appropriate areas we need to pay attention to, are covered."

Robert Dexter then proceeded to read the declaration aloud. Following the reading, Greg Auleta called for any further discussion, of which there was none. Next, Joyce Molinari called the roll for the vote. All were in favor. The declaration passed.

A copy of the corrected declaration, as read, with the vote follows.

Respectfully submitted,
Joyce Molinari
Secretary to the Zoning Board

At a Regular Meeting of the Zoning Board of Appeals held in and for the Town of Oswego on the 19th day of June, 2008, at 7:00 P.M. at the Town Hall.

STATE OF NEW YORK COUNTY OF OSWEGO
TOWN OF OSWEGO ZONING BOARD

In the Matter of an Application by

United Group Development Corp.

For an Area Variance from the Height Exceptions
Set out in Article III, Section A & B the Land Use Control
and District Regulations Ordinance of the
Town of Oswego, New York

RESOLUTION

WHEREAS, United Group Development Corp. (United Group) has applied for a variance from the bulk requirements for building height as set forth in the Land Use Control and District Regulations Ordinance of the Town of Oswego for the construction of a multi-unit student housing complex to be located off of County Route 7 (Johnson Road) in the Town of Oswego's Residential R-3 District; and

WHEREAS, United Group has submitted a site plan to the Town of Oswego Planning Board that calls for the construction of 5 separate buildings that will house a total of approximately 400 students attending Oswego State University, which is located in and around the proposed development; ; and

WHEREAS, the buildings in question vary in height, with the tallest building, commonly referred to as the Lodge Building, measuring 4 stories and 44 feet tall; and the 4 lower buildings, identified on the site plan map as Buildings A,B,C and D, all measuring 3 stories and 35 feet tall; and

WHEREAS, the Article III, Section A. 3. of the Town's Land Use Regulations establish that the building height maximum for a use in the R-3 District shall be 2 1/2 stories, but shall not exceed 35 feet; and

WHEREAS, there have been a number of public meetings concerning the applicant's site plan and variance requests, including no less than 2 separate well attended public hearings at which the public expressed support for, and opposition to, the project; and

WHEREAS, the Town of Oswego Planning Board and Zoning Board of Appeals submitted the site plan and variance requests to the County of Oswego Department of Community Development, Tourism and Planning, pursuant to NYS General Municipal Law Section 239

(l&m), and further complied with the provisions of Section 239-oo of the same law by submitting a full application to the City of Oswego, given the close proximity of the proposed site to the City's municipal boundary; the County of Oswego recommended approval of the height variance and site plan; and

WHEREAS, the Town of Oswego ZBA coordinated an environmental review of the proposed site with the Town Planning Board, together with the Town's engineers, Barton & Loguidice, which, of relevance to the height variance request, included a detailed Visual Resource Assessment prepared by Saratoga Associates, dated October 26, 2007, which concluded that the proposed buildings will have less of a visual impact than the existing buildings surrounding the proposed site; and

WHEREAS, in furtherance of the SEQRA requirements, the ZBA conducted a Visual EAF Addendum as part of the Long EAF completed by the Town Planning Board with the assistance of the Town's engineers; the result is that the Planning Board made a determination of significance that the impact of the project on the environment would be minimal and is otherwise mitigated, and therefore issued a conditioned negative declaration in accordance with SEQRA

NOW, THEREFORE, upon motion made by board member Robert Dexter seconded by board member Timothy Anderson is and shall hereby be,

RESOLVED, that the application by United Group for a variance from the height limits for buildings in the R-3 District is hereby approved in accordance with the following analysis and consideration of the criteria set forth in Article V of the Land Use Control and District Regulations Ordinance of the Town of Oswego:

i. The strict application of the provisions of the height limitations will deprive the applicant of the reasonable use of the land and buildings. The R-3 District permits apartment housing and the applicant's proposal calls for student housing, therefore the use is permitted. The applicant has demonstrated, through multiple site plan modifications, an extensive environmental analysis, and numerous public meetings and hearings, that the proposed buildings, as proposed will not negatively impact the surrounding neighborhood. Moreover, the topography of the project site requires the innovative lay out that is proposed, thus causing the height of the buildings to exceed the maximum height limitations ; and

ii. The variance is necessary for the reasonable use of the land and the buildings proposed, and the variance is the minimum necessary to accomplish this purpose. The variance requested is one-half a story for the 4 lower buildings (A-D), since the Ordinance permits a 2 story building, but not exceeding 35 feet. In the case of the 4 lower buildings, all measuring 35 feet in height, the only requirement to be varied is the story, up to 3 stories. In the case of the Lodge Building, the maximum height variance would be 9 feet and 1 story. While this may seem more significant to the casual observer, the topography of the land is such that the Lodge Building will be constructed on a sloped grade, thus the visual effect will be less than if the building were constructed on an even grade; and

iii. The granting of the height variance will be in harmony with the general purpose and intent of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The use proposed by the applicant is permitted in the R-3 District and therefore was a contemplated, permissible use when the Ordinance was enacted. Moreover, the Visual Resource Assessment concluded that the current buildings surrounding the proposed site (i.e. the SUNY Maintenance Building, Laker Hall and Romney Field House) have more of a visual impact than the Oswego College Suites proposed by United Group. Additionally, it must be noted that although there are quiet neighborhoods less than a quarter mile from the proposed site, those same neighborhoods have cohabitated with college dormitories much closer in

proximity to those homes and neighborhoods than the proposed site; and it is further

RESOLVED, that a copy of this resolution be submitted to the Town of Oswego Planning Board for consideration when determining site plan approval of the site application submitted by the United Group.

The motion having been placed before the Zoning Board of Appeals for a vote was adopted by a vote of 5 in favor, 0 opposed and 0 absent in accordance with the following roll call vote.

GREGORY AULETA, CHAIRMAN YES
ROBERT BAKER YES
TIMOTHY ANDERSON YES
DEBRA JASKULA YES
ROBERT DEXTER YES

I HEREBY CERTIFY the above to be a full, true and correct copy of a resolution duly adopted by the Board of Appeals of the Town of Oswego, on the date first mentioned.

**GREGORY F. AULETA, CHAIRMAN
ZONING BOARD OF APPEALS**

Greg Auleta, next referred to the letter from the County Planning and Tourism Department concerning the United Group and, for the record, read the pertinent paragraph, which was as follows:

“The County Department has reviewed this application, based on materials submitted with this referral, the Department recommends approval for height variance and site plan.”

Public Comment: None

Open Board Discussion: Greg Auleta expressed his appreciation to the Board, United Group, Jeff Smetana, and the members of the Town for their cooperation and diligence.

Adjournment: The meeting was adjourned by Greg Auleta at 7:55 p.m.

Respectfully submitted,

Joyce Molinari, Secretary