City of Rochester

Neighborhood and Business Development
City Hall Room 125B, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

Bureau of Planning
and Zoning

June 30, 2016

James A. Boglioli, Esq.
Delta Sonic Car Wash Systems, Inc.
570 Delaware Avenue
Buffalo, NY 14020

RECEIVED
CITY OF ROCHESTER
CLERK/COUNCIL OFFICE
2016 JUL -1 PM 12:46

Location: 980 West Ridge Road
Zoning District: C-3 Regional Destination Center District
File Number: V-063-15-16
Vote: 7-0-0

NOTICE OF DECISION

In the matter of the request for an Area Variance to legalize and renovate the existing 20' tall kiosk sign for "Delta Sonic" which also includes the installation of an LED display, not meeting certain sign requirements, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **APPROVED ON CONDITION:**

The LED sign displays can only be changed once every 10 minutes. The brightness or intensity of the LED sign must auto adjust for daytime and nighttime use.

Pursuant to Section 120-195B(9) of the City Code, a variance shall become null and void one (1) year after the date on which it was issued, unless a Building Permit is obtained and maintained.

****IMPORTANT**:** You must make an appointment to complete the permit process. No work relating to this variance request can be started without the issuance of a Building Permit. Please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov to schedule an appointment.

Zina Lagonegro, EIT, AICP
Secretary to the Zoning Board of Appeals

Resolution and Findings of Fact:

1. **Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community?** **Yes _X_ No __**

Finding: The subject property consists of a Delta Sonic car wash, gas station and convenience store. The property is located on a busy, east-west corridor that is predominantly in the C-3 Regional Destination Center. According to section 120-49 of the Zoning Code, the purpose of the C-3 District is as follows:

> ....[it] provides locations for regional scaled growth and development of commercial and light industrial uses. The C-3 Districts are located on major arterials and, therefore, are accessible to and serve a regional market.

The applicant is proposing to renovate the existing sign to add brick to the sign in order to make it more visually appealing. In addition, the applicant is proposing to replace the existing panel located under the gas pricing with an LED display. The LED display is a benefit to the applicant based on the nature of the business. The LED display will allow Delta Sonic to advertise different promotions and sales in connection with the car wash, gas station and convenience store. The proposed sign is in character with nearby properties along W. Ridge Road and is not out of scale for this C-3 District. The benefits to the applicant outweigh any detriment to the health, safety and welfare of the community.

2. **Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties?** **Yes ___ No _X_**

Finding: The subject property is located in a busy commercial area. There are also nearby properties will pole signs, some of which include electronic reader boards or LED panels. The proposed changes to the existing kiosk sign will improve the visual appearance of the sign. The proposal is consistent with the overall character of the area and will not create a detriment to nearby properties.

3. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes ___ No _X_**

Finding: At the hearing, the applicant presented an alternative design that meets the 15' tall height limitation. However, the sign was less attractive and less proportional than the proposed renovation to the existing sign. In addition, there is no means of installing an LED sign without a variance.

The variance approval on condition will limit the dwell time for each message to one every ten minutes and will ensure the brightness is adjusted to the light conditions. These conditions mitigate the overall request.

4. Is the requested variance substantial? **Yes ___ No __X**

Finding: The variance request is not substantial as the sign height is existing and the amount of signage is not increasing. The LED display is consistent with the character of this portion of W. Ridge Road.

5. Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood? **Yes ___ No __X**

Finding: This variance request will not create an adverse impact on the physical or environmental conditions in the neighborhood. The property is located in a C-3 District where pole signs that are 15' in height are permitted. The parcel has a frontage of approximately 300', which is large enough to support a 20' tall kiosk sign with LED message board without creating significant visual clutter.

6. Is the alleged difficulty self-created? **Yes _X_ No __**

Finding: The alleged difficulty is self-created, however, it does not override the merits of granting this request.

Record of Vote:

J. Best	Approve on condition
L. Boose-Stanford	Approve on condition
D. Carr	Approve on condition
J. DeMott (alternate)	Approve on condition
M. Morales	Approve on condition
J. O'Donnell	Approve on condition
M. Tilton	Approve on condition

This decision was based on the following testimony and evidence:

Supporting Testimony:
James A. Boglioli

Opposing Testimony:
John Lembach

Evidence:
Staff Report
Area Variance Application
City Property Information Map
Statement of Difficulty
Photographs
Site Plan
Arial Photographs
Photographs
Sign Renderings
Personal Appearance Notice, Affidavit of Notification, Speakers' List

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June 30, 2016

Michael Cimino
Perri's Pizza at the Brighton Pub
1881 East Avenue
Rochester, NY 14610

Location: 1881 East Avenue
Zoning District: C-2 Community Center District
File Number: V-077-15-16
Vote: 0-7-0

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NOTICE OF DECISION

In the matter of the request for an Area Variance to install four internally illuminated signs that are 7.5' x 5.5' each for "Perri's Pizzeria at the Brighton Pub", thereby exceeding certain sign requirements, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **DENIED.**

If you have any questions or concerns about this decision, please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov.

Zina Lagonegro, EIT, AICP
Secretary to the Zoning Board of Appeals

cc: Michael Perri, 1835 N. Union St., Spencerport, NY 14559

Resolution and Findings of Fact:

1. **Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community?** **Yes __ No X**

   Finding: The subject property is legal as a bar/restaurant on the first floor and office and accessory storage on the second floor. Despite the commercial use, the architecture of the building is residential in nature. The applicant is proposing to block the third floor dormer windows and install a sign on each of the four sides of the building. The Zoning Board determined that the location of the proposed signs would significantly detract from the architectural character of the building and would be a detriment to the health, safety, and welfare of the community.

2. **Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties?** **Yes X No __**

   Finding: The subject property is located in a C-2 Community Center District where internally illuminated signs are permitted. However, the Zoning Board determined that externally illuminated signs would be more appropriate at this location given the architecture of the building. Moreover, the elimination of the third floor dormer windows would detract from the character of the façade. The proposed signage would produce an undesirable change in the character of the building and the surrounding properties.

3. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes X No __**

   Finding: The applicant did not provide any evidence that alternatives were considered. The Zoning Board noted that there are several other locations on the property where the applicant could consider installing a sign that would not require the removal of windows.

4. **Is the requested variance substantial?** **Yes X No __**

   Finding: Given the impact on the appearance of the building, the variance request is substantial.

5. **Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood?** **Yes X No __**

   Finding: The proposal will result in the elimination of the third story dormer windows which are an important architectural feature of the building. Given the location of the property along East Avenue and adjacent to the 490, the Zoning Board acknowledged that signage is important to the business, however a sign request that was more sensitive to the aesthetics of the property would be a preferable solution.

6. Is the alleged difficulty self-created? **Yes _X_ No __**

Finding: The desire to have additional signage that would eliminate the third story dormer windows is a self-created difficulty.

Record of Vote:

J. Best	Deny
L. Boose-Stanford	Deny
D. Carr	Deny
J. De Mott (alternate)	Deny
M. Morales	Deny
J. O'Donnell	Deny
M. Tilton	Deny

This decision was based on the following testimony and evidence:

Supporting Testimony:
Kurt Edens
Michael Cimino

Opposing Testimony:
Mary Coffey
Holly Petsos
Marilyn Shutte
John Lembach

Evidence:
Staff Report
Area Variance Application
City Property Information Map
Statement of Difficulty
Sign Renderings
Photographs
Survey Map
Personal Appearance Notice
Affidavit of Notification
Speakers' List

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June 30, 2016

Amanda Pontarella
Child Street Properties, LLC
526 Child Street
Rochester, NY 14606

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Location: 529 Child Street
Zoning District: M-1 Industrial District
File Number: V-078-15-16
Vote: 7-0-0

NOTICE OF DECISION

In the matter of the request for an Area Variance to install a 6' tall chainlink fence along the entire length of the Brayer Street lot line of an auto body and collision shop, not meeting certain landscaping requirements, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **APPROVED on Condition that barbed wire is not permitted on the proposed fence.**

Pursuant to Section 120-195B(9) of the City Code, a variance shall become null and void one (1) year after the date on which it was issued, unless a Building Permit is obtained and maintained.

****IMPORTANT**:** You must make an appointment to complete the permit process. No work relating to this variance request can be started without the issuance of a Building Permit. Please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov to schedule an appointment.

Zina Lagonegro, EIT, AICP
Secretary to the Zoning Board of Appeals

Resolution and Findings of Fact:

1. **Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community?** **Yes _X_ No __**

   Finding: Replacing the existing, dilapidated fence with a 6' tall chain link fence will improve the appearance and security of the property. The parcel has a frontage of more than 700 feet along Brayer Street. The south side of Brayer is in the R-1 Low-Density Residential District and consists of residential dwellings and vacant land.

   The requirement for a 10' landscape setback between the fence and the front lot line is unsuitable for this location. According to the applicant, trespassers currently throw trash over the fence, including old tires. Installing a 10' landscape setback on a parcel that has a large area of vacant land could exacerbate trespassing and the accumulation of debris. The proposed 6' tall chain link fence will benefit the applicant and the neighborhood by improving the appearance and security of the property.

2. **Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties?** **Yes ___ No __X**

   Finding: The proposal to install a fence along the Brayer Street lot line will ensure that the parcel is secure and eliminate the ability for trespassers to use the site. The proposal will not produce an undesirable change in the character of the neighborhood.

3. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes ___ No __X**

   Finding: There is no alternative to that would allow the applicant to improve the appearance and secure the site at the same time.

4. **Is the requested variance substantial?** **Yes ___ No __X**

   Finding: The M-1 Industrial District permits a 6' tall chain link fence in the front yard with a 10' landscape setback. The proposal to install the fence without the landscape buffer is reasonable for a site that includes an auto body and collision repair shop and a significant amount of vacant land. As a result, the Zoning Board determined that the request is not substantial.

5. **Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood?** **Yes ___ No __X**

   Finding: The aesthetics of the property will be improved by the installation of the new fence. The transparency provided by the chain link fence will reduce the likelihood of trespassers being on the site.

6. Is the alleged difficulty self-created? **Yes _X_ No __**

Finding: The alleged difficulty is self-created, however, it does not override the merits of granting this request.

Record of Vote:

J. Best	Approve on condition
L. Boose-Stanford	Approve on condition
D. Carr	Approve on condition
J. DeMott (alternate)	Approve on condition
M. Morales	Approve on condition
J. O'Donnell	Approve on condition
M. Tilton	Approve on condition

This decision was based on the following testimony and evidence:

Supporting Testimony:
Stacey A. Williams

Opposing Testimony:
None

Evidence:
Staff Report
Area Variance Application
City Property Information Map
Statement of Difficulty
Survey Map
Floor Plans
Photographs
Proposal and Invoice for parking lot reclamation
Proposal for fence installation
Notice and Order, dated 04/29/16
Personal Appearance Notice, Affidavit of Notification, Speakers' List

City of Rochester

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City Hall Room 125B, 30 Church Street
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June 30, 2016

Raymond Czerwinski
84 Boardman Street
Rochester, NY 14607

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Location: 84 Boardman Street
Zoning District: R-2 Medium-Density Residential District
File Number: V-079-15-16
Vote: 7-0-0

NOTICE OF DECISION

In the matter of the request for an Area Variance to install a 20' x 12' attached deck in the rear yard of a single family dwelling, thereby exceeding the lot coverage limitations, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **APPROVED.**

Pursuant to Section 120-195B(9) of the City Code, a variance shall become null and void one (1) year after the date on which it was issued, unless a Building Permit is obtained and maintained.

****IMPORTANT**:** You must make an appointment to complete the permit process. No work relating to this variance request can be started without the issuance of a Building Permit. Please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov to schedule an appointment.

Zina Lagonegro, ED, AICP
Secretary to the Zoning Board of Appeals

Resolution and Findings of Fact:

1. **Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community?** **Yes _X_ No __**

   Finding: The subject property is a single family dwelling with lot coverage of 60%. The applicant is proposing to minimally increase the lot coverage to 65% by installing an attached deck in the rear yard. The location of the deck allows the applicant to maintain a reasonable portion of the yard as grass. The proposed deck provides the applicant with recreation space in the rear yard, which is a benefit that does not result in any detriments to the health, safety, and welfare of the neighborhood.

2. **Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties?** **Yes ___ No __X**

   Finding: The applicant is proposing to install an attached deck in the rear yard that is not visible from the right-of-way. There is no visual impact resulting from this request. The Zoning Board determined that this request will not produce an undesirable change in the character of the neighborhood.

3. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes ___ No __X**

   Finding: The applicant considered installing a patio rather than a deck, which would not have impacted the lot coverage requirement. However, the deck will be at the same height as the first floor of the home, which allows the applicant to step right out onto the deck (rather than down onto the patio). There is no alternative to the variance request that would allow the applicant to enter and exit onto the deck from the dwelling without stepping down.

4. **Is the requested variance substantial?** **Yes ___ No __X**

   Finding: The size and location of the deck is reasonable given the layout of the site. The deck will not be visible from the public right-of-way. The Zoning Board determined that this is not a significant request.

5. **Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood?** **Yes ___ No __X**

   Finding: The variance request will not have an adverse impact on the physical or environmental conditions of the neighborhood. The deck does not produce noise or fumes and does not significantly reduce the green space available on this parcel.

6. **Is the alleged difficulty self-created?** **Yes _X_ No __**

   Finding: The alleged difficulty is self-created, however, it does not override the merits of granting this request.

Record of Vote:

J. Best	Approve
L. Boose-Stanford	Approve
D. Carr	Approve
J. DeMott (alternate)	Approve
M. Morales	Approve
J. O'Donnell	Approve
M. Tilton	Approve

This decision was based on the following testimony and evidence:

Supporting Testimony:
Raymond Czerwinski

Opposing Testimony:
None

Evidence:
Staff Report
Area Variance Application
City Property Information Map
Statement of Difficulty
Survey Map
Construction Drawings
Photographs
Personal Appearance Notice, Affidavit of Notification, Speakers' List

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June 30, 2016

Donald Curelier
Dons Custom Decks & Remodel
38 Paula Red Lane
Rochester, NY 14626

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Location: 237 S. Fitzhugh Street
Zoning District: R-3 High-Density Residential District
File Number: V-080-15-16
Vote: 7-0-0

NOTICE OF DECISION

In the matter of the request for an Area Variance to install an attached patio in the side yard of a single family dwelling, not meeting the side yard setback requirement, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **APPROVED.**

Pursuant to Section 120-195B(9) of the City Code, a variance shall become null and void one (1) year after the date on which it was issued, unless a Building Permit is obtained and maintained.

****IMPORTANT**:** You must make an appointment to complete the permit process. No work relating to this variance request can be started without the issuance of a Building Permit. Please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov to schedule an appointment.

Zina Lagonegro, EIT, AICP
Secretary to the Zoning Board of Appeals

Resolution and Findings of Fact:

1. **Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community?** **Yes _X_ No __**

   Finding: The subject property is a single family dwelling located on a small and unusually shaped parcel. The parking for the dwelling is accessed from a private road that runs along the rear of the property. As a result, there is very little rear yard. The configuration of this parcel is typical for the properties along this portion of South Fitzhugh Street.

   The applicant is proposing to remove an existing brick patio and replace it with a deck. The deck will envelop the side yard on the south side of the property. The existing landscaping along the front of the dwelling will screen the visibility of the deck from the public right-of-way. Several neighbors have submitted emails in support of this request. The Zoning Board determined that the benefits of this proposal outweigh any detriment to the health, safety and welfare of the community.

2. **Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties?** **Yes ___ No __X**

   Finding: Many properties in the area have small lot sizes (e.g. 36' x 70') and do not have large rear yards. As such, the neighboring properties also have decks and patios in their side yards. The variance request is consistent with the character of the neighborhood and of nearby properties.

3. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes ___ No __X**

   Finding: The configuration of the lot does not provide an alternative location for the applicant to build a deck that is adjacent to the house.

4. **Is the requested variance substantial?** **Yes ___ No __X**

   Finding: The variance request is not substantial as the survey map indicates that the deck is setback approximately 17' from the right-of-way. Coupled with the existing landscaping, the deck will not have a visual impact on the street.

5. **Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood?** **Yes ___ No __X**

   Finding: The variance request to replace an existing deck with not have an adverse impact on the physical or environmental conditions of the neighborhood. The deck does not produce noise or fumes and does not reduce the green space available on this parcel.

6. Is the alleged difficulty self-created? **Yes ___ No __X**

Finding: The small lot size is not a self-created difficulty.

Record of Vote:

J. Best	Approve
L. Boose-Stanford	Approve
D. Carr	Approve
J. DeMott	Approve
M. Morales	Approve
J. O'Donnell	Approve
M. Tilton	Approve

This decision was based on the following testimony and evidence:

Supporting Testimony:
Bill Shortt

Opposing Testimony:
None

Evidence:
Staff Report
Area Variance Application
City Property Information Map
Statement of Difficulty
Survey Map
Construction drawings
Photographs
Letter from Kathleen Shortt, dated 05/11/16
Email from Peter S. Mohr, dated 06/03/06
Email from David Runzo, dated 06/03/16
Email from Brian O'Neill, dated 06/06/16
Email from James Hansen, dated 06/06/16
Email from Dan Bresnan, dated 06/14/16
Personal Appearance Notice, Affidavit of Notification, Speakers' List

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June 30, 2016

Juan Baute
403 North Park Drive
Rochester, NY 14609

Location:	200 Parkway
Zoning District:	R-1 Low-Density Residential District
File Number:	V-082-15-16
Vote:	7-0-0

NOTICE OF DECISION

In the matter of the request for a Use Variance to re-establish property as a three-family dwelling that has lost its rights due to a period of vacancy of greater than nine months, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **APPROVED on condition:**

> **The proposed three family dwelling must meet all requirements of the NY State Building Code, including ingress/egress and room size. The three windows on the Parkway façade must be replaced with larger windows that mimic the size and pattern of the windows on the second story of the building (final design to be approved by the Director of Planning and Zoning).**

Pursuant to Section 120-195B(9) of the City Code, a variance shall become null and void one (1) year after the date on which it was issued, unless a Building Permit is obtained and maintained.

****IMPORTANT**:** You must make an appointment to complete the permit process. No work relating to this variance request can be started without the issuance of a Building Permit. Please contact Jill Symonds at 585-428-7364 or Jill.Symonds@cityofrochester.gov to schedule an appointment.

Zina Lagonegro, EIT, AICP
Secretary to the Zoning Board of Appeals

cc: Miguel Reyes, 1664 N. Clinton Avenue, Rochester, NY 14621

Resolution and Findings of Fact:

1. **Can the applicant realize a reasonable return as shown by competent financial evidence?** **Yes ___ No __X**

   Finding: The applicant submitted financial information that indicates the property would not realize a reasonable return if used as a single family dwelling.

2. **Is the alleged hardship relating to the property unique?** **Yes __X__ No __**

   Finding: The subject property is a two-story brick building with a single story addition in the rear, located on the corner of Parkway and Costar Street. According to the applicant, previous owners converted the commercial storefront to residential and removed the plate glass windows and replaced it with wood construction and siding.

   The addition to the building may have been constructed in 1947, when a permit was issued to add a shed to the building. Although the shed is contiguous to the brick portion of the building, the single story addition stands alone. The result is that the structure is neither physically nor aesthetically suited to be marketed and used as a single family.

3. **Is the alleged difficulty self-created?** **Yes ___ No __X**

   Finding: The inability to realize a reasonable return on the subject property is not a self-created difficulty.

4. **Will the requested use variance, if granted, alter the essential character of the neighborhood?** **Yes ___ No __X**

   Finding: The variance request was approved on condition that new windows are installed on the first floor of the building facing Parkway. This condition will improve the physical appearance of the structure.

   While this property is located in the R-1 Low-Density Residential District, there is a single family, a two-family, and a three-family on the corner of Parkway and Costar Street. The re-establishment of this property as a three-family is in keeping with the existing character of the neighborhood.

5. **Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?** **Yes ___ No __X**

   Finding: The two-story brick building was originally designed for commercial on the first floor and residential on the second floor. The demand for small scale retail in a residential zone has decreased over time, making it difficult for the property owner to restore the first floor to commercial.

Record of Vote:

J. Best	Approve on condition
L. Boose-Stanford	Approve on condition
D. Carr	Approve on condition
J. DeMott (alternate)	Approve on condition
M. Morales	Approve on condition
J. O'Donnell	Approve on condition
M. Tilton	Approve on condition

This decision was based on the following testimony and evidence:

Supporting Testimony:
Miguel Reyes
Juan Baute

Opposing Testimony:
None

Evidence:
Staff Report
Use Variance Application
City Property Information Map
Statement of Unnecessary Hardship
Statement of Income and Expense
List of Capital Improvement Costs
Monroe County Tax Receipt
Property Deed
Instrument Survey Map
Floor Plans
Photographs
Personal Appearance Notice
Affidavit of Notification
Speakers' List