

Request to City of Albany Board of Zoning Appeals for area variance
For 363 Ontario Street, Albany, NY, application

Submitted November 3, 2017

Preface

Jankow Companies (Developer) has attempted to generate a plan for the site of the Playdium bowling Alley (363 Ontario St) that met the requirements of the neighborhood, met prevailing zoning ordinances and would be deemed a financially responsible venture.

For over four months, input was received from the leadership of the Pine Hills Neighborhood Association, Albany Common Council members Leah Golby and Judy Doeschatte, The City of Albany Planning staff, a public forum held at the Hibernian Club and from the City of Albany Planning Board. The Developer took every viable suggestion seriously and incorporated these features or design changes throughout this period.

At issue is the fact that without a variance for a fourth floor, the resulting development is not viable for Jankow Companies if we are to incorporate what the various participants have requested. The current zoning allows for a three and a half story structure if the lower level (such as a garage) is partially buried or if the top floor has a sloped roof as in a mansard design where no more than 70% of the total area is used. After significant input from the Department of Planning & Development and the Planning Board, what has evolved is a preferred design that moves from a three and a half story building with a sloped roof to a four story, flat roof. This change requires an area variance, not because of its physical height but because of the number of stories considered.

One factor not addressed in the zoning code is the height of a story. Allow me to illustrate this by comparing two identical, flat roofed three story buildings where the only difference is the height of a story and its framing.

Building One has 24" height trusses and ceiling heights of 12 feet. Building Two has 12" trusses and eight foot ceilings. Everything being equal, the height of Building One would be 42' while Building Two would be 27', a difference of 15'. Yet both are permissible three story structures according to the new code.

In our instance, we first submitted a compliant three and a half story mansard roof design to the Planning Board. This design measured approximately 52' in height at its peak providing we offered only 9' ceilings. But that style was deemed inappropriate in favor of something fresh and invigorating and in line with the prevailing urban thinking. The resulting design was only 46' high to the top of a parapet of a four story flat roofed building.

In short, our 4 story building is six feet shorter than the allowable three and a half story design as pictured on the enclosed graphic.

In addition, we have attempted to minimize the "massing" on the south end of the Ontario Street building which is the most conspicuous side of any building due to the gradual slope of Ontario towards the south, thus exposing approximately four feet of our otherwise buried garage. To do this, we have pulled back the upper floor approximately 10-12 feet, creating an open patio with a glass railing to extend its openness. This reduces the mass by 11 feet, bringing it to 34' at that end plus 4' for the garage exposure above the embankment for a total of 38'.

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1. There will be no undesirable change to the character of the neighborhood in the construction of these buildings. We are taking a rundown, non-compliant building on a poorly paved open lot that contributes to flooding and are creating a focal point for growth and improvement in the neighborhood while respecting the prevailing zoning code in all other ways.

Immediate neighboring property owners have expressed enthusiasm for the development of this site as proposed and appear to be eagerly awaiting the improvements it will bring. They see no detrimental issues with the construction of these buildings. Their letters are being provided to the Board.

Otherwise, there are no other adjacent properties except a few homes across Park and Warren Streets. With the setbacks planned, the closest of any of these is probably over 50' away therefore they have little context relative to the plan.

2. The Developer has explored numerous scenarios in attempting to come up with a financially viable plan that satisfies all of the shareholders in the community. The following possibilities were explored.
 - a. Expanding the footprint of each building
 - b. Cutting back on surface parking spaces
 - c. Eliminating commercial/retail spaces
 - d. Eliminating community space
 - e. Eliminating tenant amenities
 - f. Reducing unit sizes
 - g. Placing buildings at zero setback from property lines to maximize building space
 - h. Considering purely commercial use of building site.

What we realized is that none of these were viable. Reduction of features, amenities or unit sizes yield lower rents and longer rent up periods. Changes in the physical layout would have an adverse effect on the neighborhood.

Our goal has been to work with the community and come up with a profitable venture that fosters a higher quality of life and an overall improvement to the area. It accomplishes this by providing market rate housing that is attractive to a broad spectrum of tenants, from young professionals to the proverbial empty nesters, all of whom are seeking a quality residential urban experience. Three proformas have been provided to the Board. They are labeled as follows:

“109 Units with Commercial” which is the submitted plan,

“90 Units – No Commercial” a plan whose design is still contemporary but lacks the retail/commercial/community spaces, minimizes space for any tenant amenities and offers less in storm water management

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“109 Units – Smaller – No Commercial” where we’ve tried to increase the number of units by shrinking them but have eliminated amenities, retail/commercial/community spaces, and met the essential storm water management requirements. This would also reduce the number of parking spaces. This concept also is more difficult to rent than what is proposed.

The three proformas submitted offer a clear picture that our submitted plan is financially responsible while meeting the needs of the community at large and specifically the immediate neighborhood. The other two scenarios do not meet the needs of the neighborhood and are not viable. Alternatives such as expanding the footprint of the buildings, reducing surface parking, abiding by minimum setback requirements and the other possibilities would yield a less than desirable visual and practical result. It would not meet the needs of the neighborhood and would essentially defy the spirit of the new Zoning Ordinance.

3. When considering the difference between a compliant 52’ high mansard roof and a 46’; high flat roof, the difference is substantial only in that the requested variance would yield a roofline that is 6’ lower than what is permitted. Each design yields a similar number of units and the respective amenities sought by the neighborhood. The available alternatives to reduce the number of units and amenities result in a development that is less desirable to neighbors and prospective tenants alike.
4. With the proposed design, there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood.
 - a. While we are permitted to build at the lot lines, at the suggestion of the Planning Staff, we have pulled the buildings back, being 28.9’ from the curb at Ontario St.
 - b. The Developer has minimized the tallest feasible height of the Ontario St building by pushing the top floor back from the south by 10-12’, placing an embankment at the base of the garage where only 4’ is exposed and incorporating a pocket park in that embankment to serve the neighborhood’s needs. The enclosed graphic shows relative sightlines for a 5’ tall person at zero, ten and twenty feet when facing the south side of the Ontario St building.
 - c. MU-NC Zoning requires that a building be closer to the street to create more of an urban environment. The current use of the site is defined by a large parking lot with the building set to the rear of the lot. The proposed design personifies appropriate urban development within an existing neighborhood.
 - d. The zoning shows preference towards plans that encompass commercial utilization at the first floor, a preference shared by the neighborhood. This plan includes commercial/retail usage at that level.
 - e. If the developer were to honor the minimum number of parking spaces required, it would yield 90 spaces. Instead, we are providing 142 spaces, avoiding the need to push any additional vehicles into neighboring streets for an adverse effect.

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- f. The developer is committed to making a contribution towards improved storm water retention and will incorporate a “blue roof” design on one of its buildings in addition to the other efforts planned.
5. The site has offered historic difficulties that have prevented other developers from moving forward with an acceptable plan. These difficulties; demolition, cleanup and adding necessary infrastructure, and the price of the property have created roadblocks for its development. The letter from the Seller’s broker, Gary DeGonza, reinforces this.

What we have presented is a progressive urban design that offers the desired visual impact that distinguishes itself from its surroundings. Its lower overall height than the accepted three and a half story design benefits the neighborhood and the community at large.

Our goal is to aim high in providing what the City of Albany needs to grow. We know that making such improvements in a neighborhood can only lead to inciting other property owners to improve their own properties. This means improved property values and a better quality of life – not only for the tenants of our proposed buildings, but for the neighborhood at large. We ask that you approve our variance request for the four foot difference because of what it will mean to everyone in the years to come.