

PLANNING BOARD WAIVER
~~AREA VARIANCE APPLICATION~~

Part 1. Application Notes

An application for an Area Variance is a request for relief from the dimensional or development standards of the USDO for a specific property. An application may be submitted after denial of a proposed project or development by the Chief Planning Official or the Chief Building Official.

1. The Board of Zoning Appeals (BZA) reviews the application at a public workshop and public hearing and makes its decision based on the standards in Section 375-5(E)(21)(c)(i).
2. An Area Variance application asks the BZA to change the standard code requirements because of a unique situation. The burden of proof lies with the Applicant and requested variances will only be granted if an application and supporting materials meet the necessary criteria.
3. The BZA is required to grant only the minimum variance that it deems necessary and adequate to address the hardship while preserving and protecting the character of the neighborhood and health, safety and welfare of the community.
4. The decision of the BZA is final and another application for the same or essentially the same approval cannot be submitted within one year from the date of the decision.

Note: A pre-application meeting is available upon request prior to submitting this application.

Part 2. General Information

Project Address: 76 Second Ave, Albany, NY, 12202	Tax ID Number(s): 76.72-4-20.1
Zoning District: Mixed-Use Campus/Institutional (MU-CI)	Current Principal Use: Two Family Residential

Part 3. Project Description

(Describe the variance and identify the standard(s) or requirement(s) of the USDO proposed to be varied):

- Select the type of standard(s) or requirement(s) being varied:
- Lot area
 Lot width
 Impervious lot coverage
 Height
 Minimum setback
 Fence/wall standard
 Off-street parking/loading/circulation standard
 Landscaping/buffer standard
 Exterior lighting standard
 Signage
 Other *(Specify; must reference a specific standard in the USDO):* District & Dimensional Standards, Building & Streetscape Design

Section number of USDO from which the ~~variance(s)~~^{waiver(s)} is being requested: 375-2(D), 375-4(A), 375-4(E), 375-4(G)

Current USDO requirement(s) or standard(s): See attached narrative

Proposed requirement(s) or standard(s): See attached narrative

Part 4. Character of the Neighborhood

Explain why the dimensional alteration being proposed will not result in a structure or a configuration that will be out of place in the neighborhood or zone district (e.g., the structure's overall size and footprint size and placement are similar to the structures on adjacent properties):

See attached narrative

Part 5. Alternatives Considered

Describe the benefit to be achieved by the granting of the variance and why such benefit cannot otherwise be reasonably achieved (detail any alternatives that were considered and rejected, and include evidence where necessary to support your conclusions):

See attached narrative

Part 6. Substantiality

Indicate why the requested variances is not a substantial or contextually significant deviation from the prevailing regulation:

See attached narrative

Part 7. Impact on Environment

Describe any potential impact on such factors as drainage, traffic circulation, dust, noise, odor, public services, among others (e.g., compliance with the USDO requirement to be varied would result in the removal of three mature trees and a natural berm):

See attached narrative

Part 8. Self-Created Difficulty

Explain why the need for the variance requested is not self-created (e.g., the lot was created in 1954 and does not comply with the minimum lot area requirements of the USDO):

See attached narrative

Part 4. Submittal Requirement Checklist

(NOTE: Submit the greater number of required documents for concurrent applications if duplicate submittal documents are listed)

	Required Documents (All Documents Must Be Submitted Electronically)	Electronic Copies	Electronic Submission Name (.PDF)
A. Required for All Area Variance Applications			
<input checked="" type="checkbox"/>	Master Application	1	Master Application
<input checked="" type="checkbox"/>	Area Variance Application Planning Board Waiver Application	1	AV
<input type="checkbox"/>	Rejection Letter from Chief Planning or Building Official	1	Rejection Letter
<input checked="" type="checkbox"/>	Color photographs of the property in context with surrounding properties	1	Photos
<input checked="" type="checkbox"/>	Site Plan showing lot lines, dimensions, buildings, driveways, parking, landscaping, etc., drawn to scale	1	Site Plan [YYYY]- [MM]-[DD]
<input type="checkbox"/>	Application fee as established in the Albany Fee Schedule – Payable to <i>The City of Albany Treasurer</i> <ul style="list-style-type: none"> • One- to two-family residence : \$50.00 • All Others: \$150.00 		
B. Voluntary of Upon Request			
<input checked="" type="checkbox"/>	Environmental Assessment Form as required by SEQR	1	Short or Full EAF
<input checked="" type="checkbox"/>	Floor Plans (if new construction or an addition), drawn to scale	1	Floor Plan [YYYY]- [MM]-[DD]
<input checked="" type="checkbox"/>	Building Elevations showing building height in relation to buildings on adjacent properties (if variance is for a structure, building, fence, etc.), drawn to scale	1	Elevations [YYYY]- [MM]-[DD]
<input checked="" type="checkbox"/>	Project Narrative	1	Project Narrative
<input type="checkbox"/>	Any additional information determined to be necessary by the Chief Planning Official	1	[Document Name]

Electronic document submissions shall be sent via email to bza@albanyny.gov, USB Flash Drive, or by another medium approved by the City of Albany Planning Staff. CD and DVD submissions are **not** accepted.

October 23, 2020

Revised: November 2, 2020

Chris Spencer, Director
City of Albany Department of Planning & Development
200 Henry Johnson Blvd.
First Floor, Suite #3
Albany, NY 12210

*Re: The Seventy-Six, Mixed-Use Redevelopment
South End Neighborhood, Albany NY
Project Narrative – Planning Board Waivers
Chazen Project # 32019.00*

Dear Mr. Spencer:

On behalf of South End Development, LLC (SED), the Chazen Companies (Chazen) respectfully submit this narrative in support of Planning Board Waiver Requests for the Seventy-Six mixed-use redevelopment project. Many of the waiver requests are related, so where possible, we have combined the standards to cover multiple related waiver requests at one time. This document will supplement the information contained in Chazen's October 15, 2020 response letter, to comments received from the Albany Planning staff, dated October 6, 2020.

A. Request for Waivers:

§375-4(E)(5)(b): Parking stall dimensions (Provide 18-ft stalls, where 20-ft length is required)

§375-2(D)(6)(d)(i)(C): Provide 3 subsurface parking spaces within 50-ft of R-1M Zoning District

§375-4(E)(5)(n)(v): Provide 8'-6" clear height for subsurface parking levels, where 13-ft is required for aboveground parking garage design.

1. Character of the Neighborhood: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the waiver.

None of these requests will produce an undesirable change in the character of the neighborhood. The changes are minimal, occur wholly within an enclosed subsurface structure, and will not impact the occupants of the Seventy-Six project or the adjacent properties. The requests are undetectable to the human eye and will have no impact.

The request for reduction of parking level height is in response to a USDO provision that pertains to "aboveground parking garage" design, and requires that the "ground floor" of the garage be designed at 13-ft floor-to-ceiling height to accommodate future conversion to commercial or institutional uses. As the USDO defines, ground floor is "the story that contains finished floor area, closest to, but not below grade." In the project design, more than 50% of the garage level spaces are located below the average grade plane, with significant portions completely buried by the adjacent grades. As such, the garage levels are subsurface and are not considered ground floor. Instead, the entire ground floor area of

Buildings B & C will contain commercial uses that are completely accessible from the Scott St Plaza. This design will establish a new neighborhood core, that will enhance the character of the neighborhood. The portions of the parking levels that will be exposed on the Krank St side will be properly screened, built into the intricate façade of the streetscape, and enhanced by the pedestrian stair/ramp access and the unique wastewater wetland complex.

In addition, the adjacent R-1M zoning district includes a single property that contains the Charter School. The school or character of the zoning district will not be impacted by adjacent subsurface parking. This provision was intended to provide a buffer to residential users, not a school facility. In addition, the Charter school is not oriented toward Seymour Street, where these (3) parking spaces are located.

2. Alternatives Considered: whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a waiver.

The benefits cannot be achieved by other feasible methods. A denial of the waiver request will result in additional, unnecessary increase in the size of the structure and depth of excavation to accommodate requirements that are unnecessary in this application. Compliance with the cited provisions of the USDO would reduce the project's ability to handle the parking demands of the USDO, significantly increase the depth of excavation, or result in additional size of the building. The waivers will alleviate the need to request additional relief from the USDO parking requirements.

3. Substantiality: whether the requested waiver is substantial.

The requests are not substantial. Many municipalities have 18-ft parking stall length requirements, which provides adequate space for turning movements and reduces the quantity of impervious surfaces that generate additional stormwater runoff. The decrease in height of the subsurface parking structure is not substantial since the design will meet typical height clearances for parking garages, will reduce overall excavation, and will allow for establishment of the Scott St Plaza with full ground floor commercial use access at Buildings B & C. The waiver to allow the three subsurface spaces to remain is not substantial.

4. Impact on Environment: whether the proposed waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The requested waivers will be beneficial, rather than detrimental, to the environment. They will require less building area, excavation, and surface coverage because the decreased size will accommodate the necessary parking below grade, without the required need for additional surface parking. The request will also decrease the depth of site excavation, which alleviates concerns raised by the planning board, City staff, and the public about protection of adjacent structures and infrastructure.

5. Self-Created Difficulty: whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the waiver.

The difficulties are not self-created. The design of the site is driven by the special characteristics of the site (i.e. steep topography), together with the concerns raised by the public, staff and the planning board. Strict adherence to the USDO results in difficulties, that can be addressed with minor relief from the standards.

B. Request for Waivers:

§375-4(G)(4)(c): Entrance Doors along adjacent Public Street – Buildings B and C

§375-4(G)(4)(f)(iii): Parapet along Public Streets

1. Character of the Neighborhood: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the waiver.

The design of the Seventy-Six project intricately accounts for the steep topography of the site, and is focused on the pedestrian, rather than vehicular experience. As such, the decommissioning of Scott Street allows a public, pedestrian-only plaza to be created, which complies with the intent of the provisions of the USDO relating to the visual and functional experience of pedestrians rather than vehicles. The entrance doors for the commercial uses will front on both sides of the Scott Street Plaza, which will provide a richer experience for the users than having building entrances on the short sides of the buildings along the steep topography of Leonard and Krank Streets, which does not meet state accessibility regulations. In addition, per conversations with City Fire Department, their preference is to have the emergency stair towers located adjacent to the public rights-of-way for safe egress from the site and they have no issue with the width of the plaza for the proposed commercial access points. The result of the waiver will be beneficial to the character of the neighborhood by creating a unique neighborhood core that is safe for pedestrians. In addition, Scott Street will be 75-ft wide, which will allow for good visibility onto the plaza and access locations from each of the adjacent side roads.

The intent of parapets is to provide visual variation at the roof level. Parapets are very difficult and costly to provide in modular construction. The industry standard for modular manufacturers is to provide sleeves for installation of fall protection fencing at the roof level. To meet the aesthetic intent of the code, the buildings have been intricately designed to provide variation in top of building elevations through placement of stair towers, elevator cores, and adjustments in the number of stories for portions of each building. Further aesthetic height variation will be provided by the façade solar panels and solar canopies. The only portion of a building that does not provide a change in elevation of greater than 2-ft along each 100-lf of façade is the easterly portion of Bldg. B. At this location, the length without height variation is 108-ft, which is dictated by the dimensions of the modules. However, the northern elevation will be behind the tall church steeple and the southern elevation is where the building drops down to 7-stories to provide the rooftop community event space. It shall be noted, that neither of these lengths of Building B abut a public vehicular street, as is one of the triggers for this requirement of the USDO. As such, we feel that the level of variation provided, coupled with the intricate design of the solar canopies that provide further variation in height will meet the intent of the USDO and provide a positive aesthetic that will enhance the neighborhood character and create a new sustainable neighborhood core.

2. Alternatives Considered: whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a waiver.

The alternatives would include a complete redesign of the project to face the steep slopes of Krank and Leonard Streets. This would create significantly decreased accessibility of the site, would not accommodate the environmentally beneficial use of alternative energy, and would create a visual burden of increased scale and massing to the adjacent structures. This is not a feasible alternative.

3. Substantiality: whether the requested waiver is substantial.

The waivers are not substantial. The intent of the USDO provision is to provide visually appealing aesthetic design that relates to the user's experience. Scott Street will become a vibrant core for the neighborhood and will contain the visual characteristics required along public streets. None of the building lengths along the road frontage are longer than 100-ft, which means that changes in elevation are technically not required. However, as designed, visual height variation will be provided through a combination of materials and building components. Although parapets will not be provided, we feel that the level of variation, coupled with the intricate design of the solar canopies that offer further variation in height, will meet the intent of the USDO and provide a positive aesthetic. In addition, locating commercial and residential entrances along Scott Street Plaza will function in every way like a safe, public corridor, in alignment with the intent of the USDO.

4. Impact on Environment: whether the proposed waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

There is no adverse effect or impact on the conditions in the neighborhood or district as a result of this waiver.

5. Self-Created Difficulty: whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the waiver.

The difficulties are not self-created. They are a result of the steep topography of the site and the USDO's inability to foresee a market shift toward modular construction, both of which do not support strict compliance with these specific code provisions.

Closing Statement

The USDO is intended to accommodate typical and traditional development of sites with standard construction. However, in Section 375-5 (E)(14)(b)(iii) the USDO provides a mechanism for the Planning Board to permit some flexibility for unanticipated projects or circumstances, where the design standards may need to be revised to accommodate unique conditions and forward-thinking design.

Please consider this response as our official request for a waiver or modification of the standards set forth herein, in order to eliminate the practical difficulties that will occur with the strict interpretations of these provisions. Based upon review of the above criteria, the applicant requests that the Planning Board issues any and all necessary waivers from the above provisions, as none of the items, either on their own or collectively, will result in a violation of the intent and spirit of the provisions of the USDO.

Each of the items herein were discussed during the October 27th Planning Board Meeting, and were confirmed by Planning staff as necessary waivers. Should you have any questions or comments regarding the proposed waivers, or should you require additional documentation or information in order to complete your review, please do not hesitate to contact me at (518) 824-1924 or via email at kelsey@chazencompanies.com.

Sincerely,



Kelsey L. Carr LEED AP BD+C, CPMSM
Project Engineer/Project Manager