

Luis Roldan

From: Ron Stein <ronald.stein@att.net>
Sent: Friday, September 10, 2021 8:13 AM
To: BZA
Cc: ronald.stein@att.net; 'Michael Roman'
Subject: FW: Response - - FW: 42 Besch Avenue

Dear City of Albany Board of Zoning Appeals,

My name is Ron Stein and I am the owner of the 42/47 Besch Ave (Hackett) Project. I am respectfully asking to Appeal the recent decision by the City of Albany Department of Planning and Development at the next meeting of the City of Albany Board of Zoning Appeals on Sept. 23, 2021 in which the Department is rejecting the Building Permit for the Project as per the email attached below from Brad Glass (Director of City of Albany Department of Planning and Development).

Thanks and please let me know if there any additional information or action needed...

Ron Stein
TR Hackett LLC
917-885-7108

Rationale for Appeal (with information provided by C2 Architecture & Design – Michael Roman):

The Albany Planning Board had stated concern that the proposed apartment building project on Hackett Boulevard does not comply with the City of Albany Zoning regulations in regards to the number of stories. The proposed design includes ground level enclosed parking garage, 3 full levels of apartments with the fourth floor having the only access to mezzanines for the apartment units located on the back side of the building.

Per 2020 Building Code of New York State, section 505.2 states *“a mezzanine or mezzanines in compliance with section 505.2 shall be considered a portion of the story below. Such mezzanine shall not contribute to either the building area or number of stories as regulated by section 503.1. The area of the mezzanine shall be included in determining the fire area...”*

The proposed project design includes 7 apartment units that only have access to a mezzanine above. Per 2020 Building Code of New York State, the proposed project complies with being a 4-story building with a mezzanine.

Per the Unified Sustainable Development Ordinance (USDO) of the City of Albany, in the Zoning district of R-M, section 375-401.1 states that in the R-M district the building can be 4-stories. Per the USDO Section 375-602 Definitions; a story is defined *“as the portion of a building included between the surface of any floor and the surface of the floor next above it; if there is not floor above it, then the space between the floor and the ceiling or roof structure next above”*. There is no definition of mezzanine in the USDO, per 2020 Building Code of New York State *“a mezzanine is defined as an intermediate level or levels between the floor and ceiling of any story and accordance with section 505”*, which is noted above.

Section 375-401.4 states unoccupied roof structures such as housing for elevators, stairways, etc. are exceptions to building height limits.

Based on the criteria mentioned above, the proposed project it is our interpretation that the project complies and is considered to be a 4-story building with a mezzanine, as the mezzanine is open to only the units it is above.

From: Bradley Glass <bglass@albanyny.gov>
Sent: Thursday, September 2, 2021 9:54 AM
To: 'ronald.stein@att.net' <ronald.stein@att.net>
Subject: RE: Response - - FW: 42 Besch Avenue

Hello Ron,

Among the conditions of approval for this project is the following: “Prior to the approval of building permits for construction activities, the Applicant must receive approval from the Division of Traffic Engineering.” The list of bulleted items are the terms that will constitute the approval of the Division of Traffic Engineering. Thank you for addressing them.

If you disagree with my determination regarding the number of stories, it may be appealed to the Board of Zoning Appeals within 30 days of my determination correspondence (August 16, 2021). I understand there may be a different definition in the Building Code, but this does not supersede the provisions and definitions within the Unified Sustainable Development Ordinance (City Code Chapter 375). Pursuant to my review of those provisions, the proposed is a 5-story building.

More importantly, this project was reviewed pursuant to a public process over several months. The elevation and floor plans drawings provided with the building permit set deviate substantially from what was presented to the Planning Board, the public and others who participated in this process. It is substantial in particular because the height of the building and the view from surrounding streets and residences was a topic of discussion during the review of this project. Public confidence in our process is important and we will not be authorizing construction of a project that deviates from the approved plans without a Planning Board endorsement of the amendment. This view is shared by the Chair of the Board, whose signature is required on the site plan drawings in advance of a permit being issued.

Bradley Glass
Director

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