

Luis Roldan

From: Judy Doesschate <judydoesschate@nycap.rr.com>
Sent: Wednesday, August 25, 2021 9:40 AM
To: Bradley Glass
Cc: Judy Doesschate; Catherine Fahey; Sonia Frederick; DPD; Richard Berkley; Ginnie Farrell; Corey Ellis; kellykimbrough4@gmail.com; Martha Mahoney; John-Raphael Pichardo; Judy Doesschate
Subject: RE: City of Albany Department of Planning and Development - Notice of Upcoming Board of Zoning Appeals Public Meeting

Hi Brad –

I am concerned with your comment regarding the 2 proposals to allow electronic signs in residential areas and suggesting that the decisions be made on the basis of equity and fairness considerations rather than the actual language in the USDO for sign standards and the criteria for granting variances – especially in light of the assumptions made in your email and the fact the Common Council is considering amendments to the USDO, including the sign ordinance.

I believe your email suggests that the Common Council is wasting its time undertaking a careful review of a wide variety of issues in the USDO if the Planning Department and BZA are just going to circumvent those discussions and the current clear language of the USDO by allowing these and other policy considerations, and accompanying applications, to move forward via the granting of variances. The appropriate place to consider the issues raised by these requests, and any equity or fairness arguments, is with the Common Council. If it is appropriate to make an exception and allow schools (and other institutions) to have flashing signs, then those are policy considerations that are properly within the purview of the Common Council.

I am also concerned with the broad brush used in your email by suggesting there are lots of nonconforming digital signs throughout the city in residential areas that have established a precedent when I am only aware of a handful. Some of those may have been put up before the 2017 adoption of the USDO and may be grandfathered in (though I have no idea if those were legal at the time they were put up). Some, indeed, may be unlawful and should not be used as a basis for granting variances based upon equity arguments.

The USDO should be enforced as written.

Your comments suggest: 1. That if a sign is put up by another governmental entity, including a school district, that it is exempt from the City's USDO sign standards; and 2. That once an electronic (or flashing) and larger-than-otherwise-allowed sign is erected for one type of use by a governmental agency, then a variance should be allowed for all other similar uses on an equity or fairness basis.

On this basis, we could reasonably expect 9 institutions to erect larger-than-allowed electronic signs along New Scotland Avenue alone! : (Academy of Holy Names, Maria College, New Scotland ES; Sage; NYS School of Public Health, CDPC, Albany College of Health and Sciences (Pharmacy), Albany Medical College, and Albany Law School.) Additionally, Albany Med and St Peter's could use the equity argument to obtain a variance if CDPC or the VA put up an electronic sign – since they are providing similar services. At that point, the entire intent of restricting electronic signs to heavier commercial districts becomes moot and many residential areas will be adversely affected. We can expect the Albany Boys and Girls Academies each to ask for electronic signs (possibly along Academy Rd as well as Hackett,) along with Maimonides and a host of other private, parochial, public and other schools and institutions of higher education that may ask for similar treatment.

I also believe your presumption that public schools are exempt from our sign regulations is incorrect. I found the following case on line and was unable to find any appeal to the Court of Appeals or any decision that overturned this decision - which would make this controlling law in Albany. <https://law.justia.com/cases/new-york/appellate-division-third-department/2017/524515.html>. It concludes that local Zoning ordinances can resist the use of electronic signs by local school district. I am copying Martha Mahoney on this since she has better access to legal resources than I do and could tell us whether this was appealed and overturned or whether there is other case law that contravenes this in our appellate district.

Finally, I note that the criteria to be applied on an appeal for a use variance includes consideration as to whether the variance is substantial, can be achieved by some other means, its impact on nearby properties, the character of the neighborhood, and the potential adverse impact on the character and physical or environmental conditions of the neighborhood. The USDO does not set forth equity as a standard. Applying the criteria established in our USDO for variances, these applications should not be granted area variances.

There can be no doubt that the introduction of flashing signs into a neighborhood is substantial.

Ditto for increasing the size of signs by 2 to 3 times of that allowed by the USDO.

Flashing signs are also **not** characteristic of residentially-zoned areas – so, to introduce them into a neighborhood clearly changes the character and adversely impacts nearby properties.

I further note that part of the reason for limiting flashing or electronic signs along our streets is for a very significant public safety reason: they distract drivers, pedestrians and bicyclists and contribute to accidents. Thus, they also adversely affect the physical and environmental conditions in a neighborhood.

Finally, schools and institutions have achieved the goal of making the public aware of their location, hours and days of operation, and disseminating information for parents and caregivers for a very long time without resorting to electronic signs. Really, since schools were first established. Thus, the benefit electronic or larger-than-allowed signs may grant is something that clearly can be achieved by other means without an area variance.

In sum, this is contrary to our current USDO, remains a bad idea, does not meet the criteria for granting a variance, and is not a precedent that we should be setting.

The fact that an area variance may have been granted to another school, rather than seeking an appropriate amendment to the USDO for all similarly situated schools, is not an adequate justification for the BZA and the City to grant these variances and further head down the slippery slope of having our entire city and every neighborhood being lit up like Las Vegas, distracting drivers, and having commercial signage in residential areas.

I ask that this matter be referred to the proper body for consideration: the Common Council, where we have already engaged in discussions about appropriate amendments to our sign ordinance.

I ask that these comments be shared with all members of the Board of Zoning Appeals and that you, as the Director of Planning who has been putting a wide variety of issues before the Common Council for consideration of amendments to the USDO, recommend that consideration of the issues raised by these two variance applications be deferred (or denied) until after the Common Council has been able to consider amendments to the USDO sign ordinance.

Thank you for your consideration.

Judy Doeschate, Member
Albany Common Council, 9th Ward

From: Bradley Glass [mailto:bglass@albanyny.gov]
Sent: Monday, August 23, 2021 3:15 PM
To: 'Judy Doeschate'; Catherine Fahey; Sonia Frederick

Cc: Judy Doesschate
Subject: RE: City of Albany Department of Planning and Development - Notice of Upcoming Board of Zoning Appeals Public Meeting

Hi Judy,

If you look around at the nonconforming digital copy signs in the City, they have almost all been installed by other governmental jurisdictions that are (presumably) not subject to our zoning regulations. This creates a difficult situation for members of the BZA, as this is presented to them as a matter of "fairness" - that private schools should be entitled to the same types and sizes of signs that public schools have installed throughout the City. In the case of All Saints Academy, the BZA was under a lot of community pressure to approve. I don't know what the answer is.

Bradley Glass
Director

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From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Friday, August 20, 2021 2:35 PM
To: Bradley Glass <bglass@albanyny.gov>; Catherine Fahey <cfahey@albanyny.gov>; Sonia Frederick <sfrederick@albanyny.gov>
Cc: Judy Doesschate <jdoesschate@albanyny.gov>
Subject: FW: City of Albany Department of Planning and Development - Notice of Upcoming Board of Zoning Appeals Public Meeting

Brad, Cathy and Sonia,

The idea of allowing flashing signs and all of the requested exceptions to the sign ordinance in terms of size and number for 42 South Dove and 65 Krank Street strikes me as a really bad idea.

Especially while the CC is actively considering what changes to our sign ordinance may be appropriate.

I also don't like the precedent of putting electronic changeable copy signs in a residential area or abutting a residential area.

If allowed here, in all fairness it should be allowed in all similarly zoned areas for all businesses and institutions....we don't want our neighborhoods to start to look like Las Vegas.

Judy

From: DPD [mailto:dpd@albanyny.gov]
Sent: Friday, August 20, 2021 2:10 PM
Subject: City of Albany Department of Planning and Development - Notice of Upcoming Board of Zoning Appeals Public Meeting

Notice of Upcoming Board of Zoning Appeals Public Meeting

Board of Zoning Appeals

Notice is hereby given that a City of Albany Board of Zoning Appeals Public Meeting will take place on **Wednesday, August 25th, 2021 at 6:00 PM** at **Second Floor Community Room at 200 Henry Johnson Boulevard** and **Zoom Teleconference and Videoconference**.

Information on how to register for the Public Meeting can be found in the August 25th Board of Zoning Appeals agenda attached with this email.

Application documents are available on the web at: <https://selfservice.albanyny.gov/development-review>

Information on Attending Public Hearings and Workshops In-Person

Members of the public and applicants are encouraged to attend hearings and workshops via Zoom to provide room in-person for individuals without the ability to attend remotely.

Those that wish to attend Public Hearings and Workshops in-person will be required to complete contact tracing and wear masks the entire time they are in the building.

The non-COVID maximum seated occupancy of the Second Floor Community Room is 39 people and the gallery will have seating for 20 people.

The Board of Zoning Appeals will have gallery seating for 10 people. If the room is at capacity or has the potential to exceed maximum seated occupancy, members of the public and applicants for cases not currently being presented will be required to leave the Second Floor Community Room until their case/s appear on the agenda.



DEPARTMENT OF
PLANNING & DEVELOPMENT

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