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**MINUTES OF THE PUBLIC HEARING AND REGULAR MEETING OF THE
RENSSELAER ZONING BOARD OF APPEALS HELD ON MAY 20, 2002 IN THE
SECOND FLOOR CONFERENCE ROOM AT 7:01 P.M.**

PUBLIC HEARING:

MEMBERS PRESENT:

Chairperson Daniel Dwyer Sr.; William McLoughlin; Kathy Tagliento and Doreen Foust.

MEMBER EXCUSED:

Patricia Bourdeau

ALSO PRESENT:

Viola P. Baker; Robert and Anita Burns; Robert Nash; Robert Alden; Mike Hamlin; Edward Mackey; Charles Moore, Assistant-Director of Planning; Daniel Moore, Building Administrator; and Ruth Schroeder, Recording Secretary.

Chairperson Daniel Dwyer Sr. opened the Public Hearing at 7:01 P.M. The first item on the agenda concerned an application for an area variance to construct an addition to the rear of the property at 2012 Ninth Street submitted by Ms. Ingrid McLaughlin.

McLaughlin, 2012 Ninth Street, Area Variance Recommendation

Chairperson Dwyer read the pertinent facts of the appeal into the record as well as the recommendations of the Rensselaer Planning Commission.

Ms. Ingrid McLoughlin proposes to construct an addition to the rear of the property. The proposed addition, which would be located within a Two-Family Residential (R-2) Zoning District, would be 28' 2" from the rear property line.

According to Article III of the Zoning Ordinance, the minimum rear yard should be 30'.

The appeal under consideration is for an area variance. For an area variance to be legally granted pursuant to Article X of the General City Law, the following issues must be considered:

1. The benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant;
2. 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 area variance;
3. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
4. Whether the requested area variance is substantial;
5. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and
6. Whether the alleged difficulty was self-created.

The Planning Commission felt that the granting of the variance would not be detrimental to the public health, safety and welfare. The Planning Commission also did not feel that the proposed variance would alter the character of the neighborhood or be a detriment to nearby properties. The Rensselaer Planning Commission does not believe that the benefit sought by the applicant could be achieved by some method feasible for the applicant to pursue. Although the requested variance is substantial, the Commission felt that the variance is justified, considering existing conditions (the existing building). The Planning Commission felt that the proposed variance would not have an adverse effect on the physical or environmental conditions in the neighborhood. Therefore, the Commission recommended approval as per plans submitted.

Chairman Dwyer, at this point, opened the Public Hearing to the public.

Ms. Anita Burns of Ninth Street questioned if there is adequate room for an addition and what would the addition be used for.

Mr. William McLoughlin explained the addition would be used to expand living space and that it will not change the use of the property.

Daniel Moore of the Building Department said the rear yard variance would be approximately one foot.

Mr. Davis, a neighbor, had concerns with cars parked on the street. Mr. Daniel Moore stated he had investigated the situation and reported that there are no violations.

Chairman Dwyer stated that this is not a change of use, just squaring off the building and closed this portion of the public hearing.

Organichem, 33 Riverside Avenue, Variance Recommendation from the flood damage protection law

The next matter before the Board was an application for a variance appeal from the flood damage ordinance for Organichem, 33 Riverside Avenue. Mr. Dwyer then read into the record the pertinent parts of the application, as well as the recommendations of the Rensselaer Planning Commission.

Organichem proposes to construct a 25' x 40' addition to Building 37 to house a 300 ton frick chiller. The property is located within a Heavy Industrial (I) Zoning District.

The interior floor of the proposed structure would be a concrete slab with the top of the concrete at an elevation of 15.35 feet. The 100-year flood elevation is 20.35 feet. The property is located in the 100-year flood area, according to the Flood Insurance Rate Map of the National Flood Insurance Program. The building will be used to house the chiller, pumps, heat exchanger, indoor basin, roof mounted evaporative condenser, and other auxiliary equipment associated with the low temperature brine process cooling system. Makeup water and drain will be provided from adjacent mains. No chemicals will be stored in this building.

Pursuant to Section 5.2-2 of the City's Flood Damage Prevention Local Law, new construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; *or* be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Also, when reviewing an application for a variance appeal from the Flood Damage Ordinance, according to Section 6.4(i-xii) the following must be considered:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternate locations for the proposed use which are not subject to flooding or erosion damage;

- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

Organichem has submitted documentation, certified by an engineer, that although the building will be placed within the floodway the engineer has considered all of the above and he is satisfied that the requirements set forth in the City Flood Prevention Local Law for placement within the 100-year flood zone. Organichem Corporation is located within the proper zoning district and conforms to all other zoning requirements. Therefore, the Planning Commission recommended approval of the special use permit and a positive recommendation for the flood plain variance as per plans submitted.

Chairman Dwyer opened the hearing to the public for any comments.

He then proceeded to state that there are no problems with Organichem. They have met all requirements and that it is below flood elevation.

Mr. Dwyer asked if there were anymore comments. Hearing none, he declared this part of the Public Hearing closed.

Organichem, 33 Riverside Avenue, Variance Recommendation from the flood damage protection law.

The next item on the agenda was for an application for a variance appeal from the flood damage ordinance to install an underground wastewater tank and provide a pump station at 33 Riverside Avenue, submitted by Organichem. Mr. Dwyer then read into the record the pertinent parts of the application, as well as the recommendations of the Rensselaer Planning Commission.

Organichem proposes to install an underground wastewater tank and provide a pump lift station on a concrete pad inside a flood-proofed structure. The property is located within a Heavy Industrial (I) Zoning District.

The interior floor of the proposed structure would be a concrete slab with the top of the concrete at an elevation of 17.00 feet. The 100-year flood elevation is 20.35 feet. The property is located in the 100-year flood area, according to the Flood Insurance Rate Map of the National Flood Insurance Program.

The lift station will have an approximate footprint of 10' x 6' and be constructed of aluminum. The enclosure will house two self-priming pumps with TEFC (totally enclosed fan case), XP (explosion proof) motors, a small unit heater, and manual isolation valves. The skid-mounted pumps will be bolted to the concrete pad. Controls and electrical supply for the equipment will be housed in a separate NEMA 4X weatherproof cabinet. The enclosure is not intended for occupancy or storage materials. Access to the pumps shall be by removing locking wall panels. Drain louvers along the base of the enclosure will allow inflow and outflow of floodwaters to equalize hydrostatic flood forces. The enclosure will be bolted to the concrete slab. The lift station wet well will be a 5,000-gallon double walled steel tank located below grade. This tank will function only as a wet-well for facility process wastewater. It will not be used as a chemical bulk storage tank and will be anchored with "dead-man" anchors. The lift station enclosure will be affixed to a concrete slab foundation.

Pursuant to Section 5.2-2 of the City's Flood Damage Prevention Local Law, new construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; *or* be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Also, when reviewing an application for a variance appeal from the Flood Damage Ordinance, according to Section 6.4(i-xii) the following must be considered:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternate locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;

- viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

Organichem has submitted documentation, certified by an engineer, that although the building will be placed within the floodway the engineer has considered all of the above and he is satisfied that the proposal meets the requirements set forth in the City Flood Prevention Local Law for placement within the 100-year flood zone. Organichem Corporation is located within the proper zoning district and conforms to all other zoning requirements. Therefore, the Planning Commission recommended approval of the flood plain variance as per plans submitted.

Chairman Dwyer opened the Public Hearing to the public.

Daniel Moore explained the proposal to the Members of the Board.

Chairman Dwyer asked if anyone else wished to speak. Hearing none, he closed the Public Hearing.

Mackey, 7 Tracy Street, Area Variance Recommendation, Certificate of Appropriateness

Chairman Dwyer remarked that the next order of business on the agenda was to consider an application for an appeal for an area variance to install a fence at 7 Tracy Street. Mr. Dwyer then read into the record the pertinent facts of the appeal, as well as the recommendations of the Rensselaer Planning Commission.

Mrs. Carol Mackey proposes to install a 5' high chain link fence 25 feet from Tracy Street. The property is located within a Historic Commercial (HC) Zoning District.

According to Article IV, Section D, no fence shall exceed 4' in height when within 25' of the street or highway pavement. Therefore, the appeal under consideration is for an area variance. For an area variance to be legally granted pursuant to Article X of the General City Law, the following issues must be considered:

1. The benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant;
2. 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 area variance;
3. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
4. Whether the requested area variance is substantial;
5. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and
6. Whether the alleged difficulty was self-created.

The Planning Commission did not feel that the granting of the variance would be detrimental to the public health, safety and welfare. The Commission also did not feel that the proposed variance would alter the character of the neighborhood or be a detriment to nearby properties. The Commission did not believe that the benefit sought by the applicant could be achieved by some other method feasible for the applicant to pursue. Although the requested variance is substantial, the Planning Commission Agency felt that the variance was justified, considering existing conditions (corner lot adjacent to busy City park). The Commission felt that the proposed variance would not have an adverse effect on the physical or environmental conditions in the neighborhood. The Commission did not feel that the fence would interfere with the line of site for oncoming traffic. Therefore, the Planning Commission recommended approval of the area variance as per plans submitted.

The Public Hearing was opened to the public. Mr. Mackey explained that he installed a 5' fence to protect his children.

Mr. McLoughlin spoke and said that the area in question is a historic district and felt that the proposed fence would be compatible with the district.

Hearing no further comments, the Public Hearing was closed at 7:40 P.M by Chairman Dwyer.

REGULAR MEETING:

Chairperson Dwyer called the regular meeting to order at 7:41 P.M. with a quorum present.

MEMBERS PRESENT:

Chairperson Daniel Dwyer Sr.; William McLoughlin; Kathy Tagliento and Doreen Foust.

MEMBER EXCUSED:

Patricia Bourdeau

ALSO PRESENT:

Viola P. Baker; Robert and Anita Burns; Robert Nash; Robert Alden; Mike Hamlin; Edward Mackey; Charles Moore, Assistant-Director of Planning; Daniel Moore, Building Administrator; and Ruth Schroeder, Recording Secretary.

OLD BUSINESS:

None

NEW BUSINESS:

McLaughlin, 2012 Ninth Street, Area Variance Recommendation

Ms. Ingrid McLoughlin proposes to construct an addition to the rear of the property. The proposed addition, which would be located within a Two-Family Residential (R-2) Zoning District, would be 28' 2" from the rear property line.

Mr. William McLoughlin made a motion, seconded by Doreen Foust, for the following resolution:

"The Rensselaer City Zoning Board of Appeals hereby grants an area variance to construct an addition to the rear of 2012 Ninth Street as per plans submitted and in agreement with the recommendations of the Planning Commission".

The motion was passed unanimously.

Organichem, 33 Riverside Avenue, Variance Recommendation from the flood damage protection law

Organichem proposes to construct a 25' x 40' addition to Building 37 to house a 300 ton frick chiller. The property is located within a Heavy Industrial (I) Zoning District.

A motion was made by William McLoughlin, seconded by Daniel Dwyer for the following resolution:

"The Rensselaer City Zoning Board of Appeals hereby grants a flood plain variance to Organichem, 33 Riverside Avenue as per plans submitted and in agreement with the recommendations of the Planning Commission".

The motion passed unanimously.

Organichem, 33 Riverside Avenue, Variance Recommendation from the flood damage protection law.

Organichem proposes to install an underground wastewater tank and provide a pump lift station on a concrete pad inside a flood-proofed structure. The property is located within a Heavy Industrial (I) Zoning District.

A motion was made by Doreen Foust, seconded by Kathy Tagliento for the following resolution:

“The Rensselaer City Zoning Board of Appeals hereby grants a variance from the flood damage ordinance as per plans submitted and in agreement with the recommendation of the Planning Commission”.

The motion was unanimously passed.

Mackey, 7 Tracy Street, Area Variance Recommendation, Certificate of Appropriateness

Mrs. Carol Mackey proposes to install a 5’ high chain link fence 25 feet from Tracy Street. The property is located within a Historic Commercial (HC) Zoning District.

A motion was made by William McLoughlin, seconded by Doreen Foust, for the following resolution:

“The Rensselaer City Zoning Board of Appeals hereby grants an area variance to install a fence at 7 Tracy Street, submitted by Mrs. Carol Mackey as per plans submitted and in agreement with the recommendations of the Planning Commission”.

The motion carried unanimously.

MINUTES OF THE MARCH 18, 2002 PUBLIC HEARING AND REGULAR MEETING:

The next item on the agenda was the consideration of the minutes of March 18, 2002 public hearing and regular meeting of the Zoning Board of Appeals. He asked if there were any corrections or additions. One minor correction will be made. Mr. William McLoughlin made the motion to accept the minutes as amended. Doreen Foust seconded the motion which was passed unanimously.

ADJOURNMENT:

Since there was no further business to come before the Rensselaer City Zoning Board of Appeals, Mr. William McLoughlin motioned that the meeting be adjourned, seconded by Doreen Foust. The motion passed without a negative vote and the meeting was adjourned at 7:45 P.M.

Respectfully submitted,

Charles G. Valenti
Secretary
CGV:rs