

## CITY OF NEW BRITAIN

# ZONING BOARD OF APPEALS CHAIRMAN MATTHEW MALINOWSKI

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### REGULAR MEETING AND PUBLIC HEARING ROOM <u>504</u> – CITY HALL NEW BRITAIN, CONNECTICUT THURSDAY, NOVEMBER 18, 2021 6:00 p.m.

#### <u>AGENDA</u>

- 1. CALL TO ORDER
- 2. ROLL CALL
- NOMINATION AND ELECTION OF CHAIR AND VICE-CHAIR
- 4. APPROVAL OF 2022 MEETING SCHEDULE
- 5. APPROVAL OF MINUTES: SEPTEMBER 23, 2021 Regular Meeting
- OLD BUSINESS
  - A. PUBLIC HEARING AND DISCUSSION:

#4931: Timothy T. Stewart – 1055 West Main Street

- 7. NEW BUSINESS
  - A. PUBLIC HEARING AND DISCUSSION:

#4934: Jose Planas – 552 Corbin Avenue

#4935: Frank J. Romano – 34 Pleasant Street

#4936: Frank Sgammato – 643 Farmington Avenue

#4937: Frank Sgammato – 643 Farmington Avenue

#4938: Frank Sgammato - 643 Farmington Avenue

#4939: Jessica Angelo-Julien – 105B West Main Street

#4940: Jessica Angelo-Julien – 105B West Main Street

#4941: Jessica Angelo-Julien – 105B West Main Street

#4942: Forest E. Crisman, Jr. - 171 South Street

- 8. OTHER NEW BUSINESS
- 9. ADJOURNMENT

Next Meeting: Thursday, January 20, 2022 @ 6:00 p.m.



# CITY OF NEW BRITAIN

# ZONING BOARD OF APPEALS CHAIRMAN MATTHEW MALINOWSKI

WWW.NEWBRITAINCT.GOV

#### **MEMORANDUM**

To:

Mark Bernacki, Town Clerk

From:

Jack Benjamin, Director

Department of Planning & Development

Date:

October 7, 2021

Re:

**Zoning Board of Appeals** 

Proposed Schedule of Meetings for 2022

The **Zoning Board of Appeals** meets at 6:00 p.m. on a bi-monthly basis on the 3<sup>rd</sup> Thursday of the month in City Hall Room **201**, with an added meeting in August.

Proposed meetings for 2022 will be held on the following dates:

January 20, 2022	March 17, 2022	May 19, 2022
July 21, 2022	August 18, 2022	September 15, 2022
November 17, 2022		-

/dr

cc:

Mayor Erin E. Stewart Zoning Board of Appeals Members Dept. of Licenses, Permits & Inspections Property Management Joseph Skelly, City Attorney

#### **City of New Britain**

### ZONING BOARD OF APPEALS

City Hall – Room 201 New Britain, CT 06051

> MINUTES - Regular Meeting September 23, 2021 Page One

#### **Members Present**

Matthew Malinowski, Chairman Bryan Anderson Marion Fischbein Roman Nowak Mario Santos, Alternate

#### **Staff Present:**

John Diakun, City Attorney Steven P. Schiller, Planner II Danielle Rosado, Secretary

#### 1. CALL TO ORDER:

Chairman Matthew Malinowski called the meeting to order at 6:00p.m.

#### 2. ROLL CALL:

A quorum of five (5) members was present upon roll call. The participants in attendance were informed that, since five (5) affirmative votes are required in order for any application to be approved, all pending applicants would be given the opportunity to request a postponement to the next scheduled meeting, where it would be presumed that a full board would be present.

#### 3. APPROVAL OF MINUTES: August 19, 2021, REGULAR MEETING

**ACTION**: A motion to approve the minutes of the August 19, 2021 Regular Meeting was made by Commissioner Anderson and seconded by Commissioner Fischbein. The motion passed by unanimous vote.

#### 4. NEW BUSINESS

#### A. PUBLIC HEARING AND DISCUSSION:

#4930: Ja'mani Eaton/Ousmane Sylla – 450 South Main Street

#4931: Timothy T. Stewart – 1055 West Main Street

#4932: Marlon Soriano for The Industrial Bar & Cocktails LLC – 222 Main Street

#4933: Matt Butler for the Hook and Ladder New Britain LLC - 136 Main Street

# City of New Britain ZONING BOARD OF APPEALS

City Hall – Room 201 New Britain, CT 06051

> MINUTES - Regular Meeting September 23, 2021 Page Two

#### 5. OTHER NEW BUSINESS

There was no other new business.

#### 6. ADJOURNMENT

There being no further business to come before the Zoning Board of Appeals, the meeting was adjourned on a motion by Commissioner Santos, seconded by Commissioner Nowak, and unanimously approved, the time being 6:59 p.m.

Respectfully submitted,

Danielle Rosado, Secretary

Damelle Brown

# City of New Britain ZONING BOARD OF APPEALS

City Hall – Room 201 New Britain, CT 06051

> No. 4930 September 23, 2021

Ja'mani Eaton & Ousmane Sylla are requesting a variance to Section 170-10, permitted uses, in order to allow a hookah lounge to occupy an existing storefront at 450 South Main Street. Zone: B-1

#### **Members Present:**

Matthew Malinowski, Chairman Bryan Anderson Marion Fischbein Roman Nowak Mario Santos, Alternate

Chairman Malinowski opened the public hearing and Attorney John Diakun determined that the signed affidavit was in order.

The applicants are essentially asserting that a hardship exists in the City's zoning ordinances not expressly addressing hookah lounges as an individual permitted use. They claim establishments of this sort are becoming more common in the region and offer an added cultural attraction that would enhance the City's night life and benefit area restaurants and bars.

Mr. Schiller summarized the City Plan staff report stating that the City Plan Commission has reservations about this type of use and feels that additional information ad specific controls may be necessary.

The Engineering Department had the following comment on this application:

1. Conforming parking for all uses on the site should be confirmed.

The Building Department concurred with City Plan's opposition to the granting of a variance.

Speaking in favor:

Ja'mani Eaton, 450 South Main Street, New Britain, CT;

Osumane Sylla, 81 Westover Road, New Britain, CT

**ACTION:** A motion to approve Application #4930 was made by Commissioner Fischbein and seconded by Commissioner Nowak. After some discussion and concerns regarding location the motion was denied by unanimous vote.

APPLICATION #4930 WAS DENIED BY UNANIMOUS VOTE.

ZONING BOARD OF APPEALS Matthew Malinowski, Chairman

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Danielle Rosado, Secretary

#### **City of New Britain**

### ZONING BOARD OF APPEALS

City Hall – Room 201 New Britain, CT 06051

> No. 4931 September 23, 2021

Timothy T. Stewart for DPM New Britain Self Storage, LLC is requesting a modification to an existing variance Section 150-10, for permitted uses and variances to Sections 150-40-70.01, required front yard and 150-40-70.02, required side yard toward a side street, in order to construct additional storage unit buildings on the Cube Smart property at 1055 West Main Street. Zone: B-2

#### **Members Present:**

Matthew Malinowski, Chairman Bryan Anderson Marion Fischbein Roman Nowak Mario Santos, Alternate

Attorney Diakun noted for the record that since five (5) affirmative votes are required in order for any application to be approved the applicant is electing that Application #4931 be continued without prejudice until the November 18, 2021, ZBA meeting, where it would be presumed that a full board would be present.

**ACTION:** A motion to continue Application #4931 without prejudice to the November 18, 2021 meeting was made by Commissioner Anderson and seconded by Commissioner Santos and passed by unanimous vote.

APPLICATION #4931 WAS CONTINUED WITHOUT PREJUDICE TO NOVEMBER 18, 2021 BY UNANIMOUS VOTE.

ZONING BOARD OF APPEALS Matthew Malinowski, Chairman

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Danielle Rosado, Secretary

### City of New Britain ZONING BOARD OF APPEALS

City Hall - Room 201 New Britain, CT 06051

> No. 4932 **September 23, 2021**

Industrial Bar & Cocktail, LLC is requesting a special exception, pursuant to Section 170-20-70, in order to allow issuance of a full liquor permit for a restaurant space in the historic Porter's Building at 222 Main Street. Zone: CBD

#### **Members Present:**

Matthew Malinowski, Chairman Bryan Anderson Marion Fischbein

Roman Nowak Mario Santos, Alternate

Chairman Malinowski opened the public hearing and Attorney John Diakun determined that the signed affidavit was in order.

Mr. Schiller summarized the City Plan Commission report stating that the location is in compliance with applicable provisions of Section 270-40-40.10, regarding distancing from schools and churches, and the proposed use is consistent with long-standing planning goals of increasing nightlife and entertainment activities in the downtown area.

The Engineering Department had no comment on this application.

The Building Department offered a positive recommendation to the granting of a special exception.

Speaking in favor: Marlon Soriano, 78 Catherine Street, Hartford, CT

ACTION: A motion to approve Application #4932 was made by Commissioner Nowak and seconded by Commissioner Fischbein and passed by unanimous vote.

APPLICATION #4932 WAS GRANTED BY UNANIMOUS VOTE.

**70NING BOARD OF APPEALS** Matthew Malinowski, Chairman

Danielle Rosado, Secretary

### City of New Britain ZONING BOARD OF APPEALS

City Hall – Room 201 New Britain, CT 06051

> No. 4933 **September 23, 2021**

The Hook & Ladder New Britain, LLC is requesting a special exception, pursuant to Section 170-20-70, in order to allow issuance of a restaurant liquor permit for a restaurant space in the historic Andrews Building at 136 Main Street. Zone: CBD

#### **Members Present:**

Matthew Malinowski, Chairman Bryan Anderson Marion Fischbein

Roman Nowak Mario Santos, Alternate

Chairman Malinowski opened the public hearing and Attorney John Diakun determined that the signed affidavit was in order.

The property has been approved for several restaurant liquor licenses in the past, including permits licensed as Banquers, Application #2968 in November 1985; Green Table Tavern and later Tools, Application #4354 in September 2007; the Main Street Pub, Application #4644 in August 2013 and then Grand Pizza and The Kitchen, Application #4726 in March 2016.

Mr. Schiller summarized the City Plan Commission report stating the City Plan Commission notes that the location is deemed to be in compliance with applicable provisions of Section 270-40-40.10, regarding distancing from schools and churches, and for those reasons supports the granting of this special exception.

The Engineering Department has no comment on this application.

The Building Department offered a positive recommendation to the granting of a special exception.

Speaking in favor: Matt Butler, 65 Forest Street, New Britain, CT

**ACTION:** A motion to approve Application #4933 was made by Commissioner Nowak and seconded by Commissioner Santos and passed by unanimous vote.

APPLICATION #4933 WAS GRANTED BY UNANIMOUS VOTE.

ZONING BOARD OF APPEALS Matthew Malinowski, Chairman

Danielle Rosado, Secretary

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# ZONING BOARD OF APPEALS

City Plan Commission Report ZBA Hearing Date: November 18, 2021

### **OLD BUSINESS**

Application #4931
1055 West Main
Street

### **NEW BUSINESS**

<u>Application #4934</u> 552 Corbin Avenue

<u>Application #4935</u> 34 Pleasant Street

Applications #4936, #4937 & #4938 643 Farmington Avenue

<u>Applications #4939,</u> <u>#4940 & #4941</u> <u>105B West Main</u> Street

Application #4942 171 South Street

City of New Britain

Zoning Board of

Appeals

Meeting Room 201

6:00 p.m.

#### **OLD BUSINESS**

APPLICATION: #4931

APPLICANT: Timothy T. Stewart for DPM New Britain Self Storage, LLC

ADDRESS: 1055 West Main Street ZONE: B-2, Shopping Center

**BACKGROUND:** The applicant is requesting a modification to an existing variance Section 150-10, for permitted uses and variances to Sections 150-40-70.01, required front yard and 150-40-70.02, required side yard toward a side street, in order to construct additional storage unit buildings on the Cube Smart property on West Main Street. The property is zoned B-2, shopping centers, and the current storage facility was formerly a Shaw's supermarket, which was permitted to be converted to self-storage operations, under variance application #4707 in July 2015. The original variance was granted with specific conditions restricting the storage use to the existing building footprint and prohibiting any outdoor storage. Two subsequent variance requests, essentially identical to this current application were denied by the Zoning Board of Appeals, applications #4829 in January 2019 and #4902 in January 2021.

FINDINGS: The applicant's submitted plan depicts the 7.6 acre property with the former Shaw's supermarket building and the 312 space parking lot. The applicant indicates an intent to add 63 ground level storage units on the site. The new plans provided for this application, are similar to those submitted with the prior January 2021 application with some modifications for traffic circulation added landscaping and depiction of a prospective development pad at the southwestern corner of the parking lot. The new storage buildings would be constructed near the southeastern corner of the property, behind the Dunkin' Donuts restaurant. The plans showed a lower height, garage-style building design with a total of forty 10-by-20 foot units and another twenty-three 10-by-10 foot units, all with individual roll-up access doors.

Approximately 15 of the new units would project into the 70-foot side yard setback towards Stanwood Drive, the closest one of approximately 35 feet from the property line on Stanwood Drive. The property also has a 25-foot required side yard setback along the rear lot line of the Dunkin Donuts property. Two of the buildings would encroach into this setback to about 15 feet from the lot line. The area of new construction is proposed to be heavily landscaped with evergreen plantings provide screening toward Stanwood Drive to the east and Dunkin' Donuts to the south. The rest of the site would remain unchanged, including the potential development pad situated on the southwestern corner of the property near North Mountain Road.

The applicant claims that the modification of the original July 2015 variance approval to add these individually accessible units is warranted because the site is not currently being utilized efficiently and, that even with the added units, traffic generation and noise would remain essentially unchanged from current conditions. The applicant also suggests that similar or more intrusive uses would be permissible in the I-2 and I-1 zoning districts that are nearby and also border residential neighborhoods. In the past submissions the owner/applicant has indicated that the tenants will be prohibited from washing, repairing

or working on vehicles on-site and that access would be restricted to normal work day hours.

**CONCLUSION:** At the time of the original approval, the City Plan Commission had serious concerns regarding conducting self-storage operations on the property, particularly that noise and traffic generation might impact nearby residential neighbors on Stanwood Drive. The Zoning Board of Appeals issued a conditional approval, subject to all storage operations being located within the former supermarket building. Addition of these individually accessible units would potentially alter the character of the operations on the property, both in increasing traffic and in creating the likelihood of more automobile storage on the site, rather than the more commercial business products and typical furniture and household goods presently stored within the building.

**RECOMMENDATION:** The City Plan Commission is of the opinion that the original 2015 variance approval, allowing the change in use to self-storage, provided economic relief sufficient to address the owner's hardship that arose from the characteristics of the existing supermarket building and the site not feasibly lending themselves to any conforming B-2 business use under current market conditions. There was also some suggestion, at the time, that this might be a temporary use, preserving the building and allowing it to be financially self-sustaining until a higher and better use presents itself. The addition of these new units would be a reversal of the specific conditions of approval that were instrumental in allowing the business to be granted in the first place and would result in a substantive change to the appearance and character of the operations on the site. This would potentially be a detriment to the adjoining neighborhood and limit the potential for other higher, better and more compatible uses being attracted to the site. Consistent with their past recommendations on this matter, the City Plan Commission is opposed to the approval of these variances and to the modification of the original conditions of approval.

200 Feet

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Application # 4931

City of New Britain

Department of Public Works Director - Mark E. Moriarty P.E.

1055 West Main Street

Date: Sept 7, 2021 Drawn By: CTL Checked By: SPS/DR

## Application #4931 1055 West Main Street

75 North Mountain Road	#4419	VARIANCE To allow the splitting of an industrial park. GRANTED: August 2008
1010 West Main Street	#4703	SPECIAL EXCEPTION  To allow a used motor vehicle dealers & general repair license.  GRANTED: October 2015
1055 West Main Street	#4707	VARIANCE To convert an existing supermarket to a climate-controlled, self-storage facility. GRANTED W/CONDITIONS: July 2015
1055 West Main Street	#4829	VARIANCE In order to construct additional storage units on the Cube Smart property. DENIED: January 2019
1055 West Main Street	#4873	VARIANCES In order to construct additional storage unit buildings on the Cube Smart. DISMISSED W/O PREJUDICE: May 2020
1055 West Main Street	#4902	MODIFICATION TO EXISTING VARIANCE In order to construct additional storage building unit buildings on the Cube Smart property. DENIED: January 2021

#### **NEW BUSINESS**

APPLICATION:

#4934

APPLICANT:

Jose Planas

ADDRESS:

552 Corbin Avenue

ZONE:

S-2, Single Family

**BACKGROUND:** The applicant is requesting variances to Sections 70-40-70.01, required front yard and 70-40-70.02, required side yard, in order to construct a side yard deck on his single-family house. The subject property is located on the western side of Corbin Avenue between Shuttle Meadow Avenue and Lincoln Street. The area is zoned S-2, Single Family.

FINDINGS: The required minimum front yard setback in the S-2 zone according to Section 70-40-70.01 is 35 feet. The applicants' submitted plans show that the house is situated at a diagonal to the street line causing the property to be nonconforming with the northeast corner of the house projecting approximately 8 feet into the required front yard setback. The nonconformity dates back to the construction of the house in 1964. The required minimum side yard setback according to Section 70-40-70.02 is 7 feet. The applicants' submitted plan shows that the house is currently conforming to this requirement, being set back approximately 28 feet from the northern property line. Their proposed side yard deck would be situated in this side yard area extending 24 feet in width from the side of the house and 16 feet length towards the rear of the house. As proposed, the deck would project approximately 2 feet into northern side yard.

The applicant claims that having the deck follow the required 35 foot front yard setback, off-set from the front of the house would look awkward and be an eyesore. They claim that the deck, if built as proposed in the plan, would be perfectly square and match the structure of the house. The applicant goes on to describe that they are the only house adjacent to a waterway, and that other homes in the neighborhood were built later therefore, setback further and uphill.

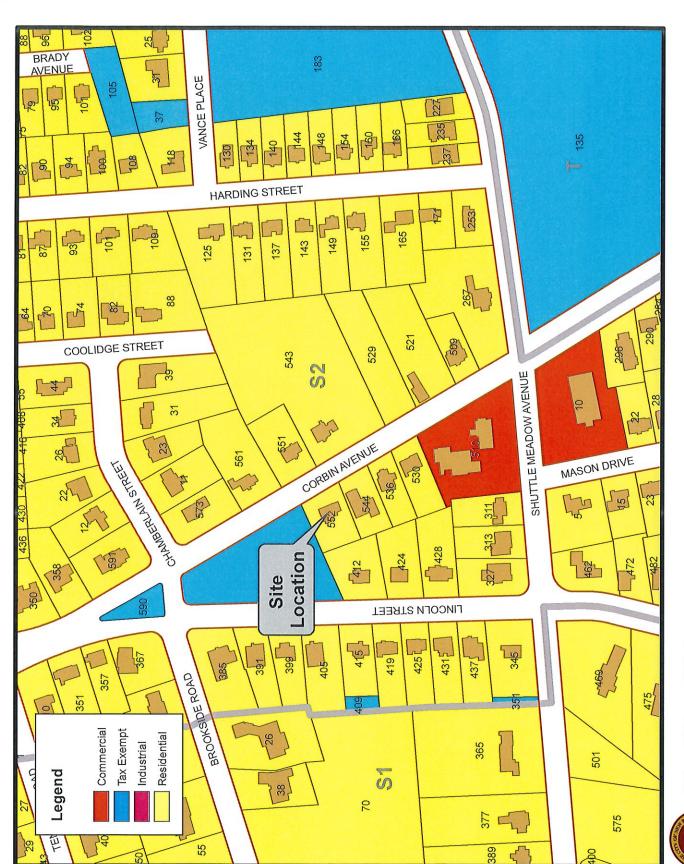
**CONCLUSION:** The City Plan Commission has been generally supportive of homeowners investing in improvements that enhance their properties, provided there is evidence of a reasonable hardship claim and provided it has no detrimental effect to neighboring properties. In this case, the proposed deck would appear to unnecessarily violate to the S-2 zoning district setback requirements. The property has an ample side yard which would allow a reasonably useable deck that extends 20 feet in width and 14 feet in length, set back approximately 10 feet from the current proposed location, to be built while conforming to the standards. The presence of the brook adjoining the northern property line does not appear to present any hardship that influences the need for the variances and in fact the presence of a FEMA 100 year flood zone along the brook would suggest the that a wider setback from the stream would be desirable.

**RECOMMENDATION:** The City Plan Commission is of the opinion that the applicant has not presented a valid hardship, since a deck can still be constructed on the property in conformance with Sections 70-40-70.01 and 70-40-70.02. Therefore, the City Plan Commission is opposed to granting these variances.

200 Feet

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Application # 4934 552 Corbin Ave

City of New Britain

Department of Public Works Director - Mark E. Moriarty P.E.

Date: Nov 2, 2021 Drawn By: CTL Checked By: SPS/DR

Application #4934 552 Corbin Avenue			
			-

APPLICATION: #4935

APPLICANT: Frank J. Romano, Jr.
ADDRESS: 34 Pleasant Street
ZONE: I-2, General Industry

**BACKGROUND:** The applicant is requesting a variance to Section 200-10, permitted uses, in order to allow the expansion of living space from an existing nonconforming two-family house into an attached warehouse space. Section 260-30-10 states that a nonconforming use shall not be enlarged or extended, except as provided in Section 270-50. Section 270-50-10 – Grant of Power, states that the Zoning Board of Appeals shall have the power, in passing on appeals for variances, to very or modify the application of the regulations or provisions of this Ordinance relating to the alteration of buildings or structures. The subject property is located on the northern side of Pleasant Street between John and Stanley streets. The area is zoned I-2, General Industry.

FINDINGS: The subject property includes a two-story residential house with an attached 1,800 square foot one-story warehouse located at the back of the house. The house was built in 1900, and totals approximately 1,500 square feet alone and about 3,280 square feet in floor area with the attached warehouse space. This property is situated in an I-2 zone, currently I-2 zoning does not permit residential uses and therefore expanding the living space into the warehouse area represents an increase in the degree of existing nonconformity. The subject property and neighboring properties are mostly multi-family homes built prior to the I-2 zoning and therefore, are nonconforming also.

The applicant looks to convert the warehouse into a two car garage and one-story residential unit. This would result in two 1,450 square foot dwelling units and one 350 square foot garage. On the west side of the property, when looking from Pleasant Street, there is currently an existing two car driveway. The proposed plan includes the addition of another two car driveway on the east side of the property. Along with adding the driveway, they look to add an additional curb cut. Based on the proposed plan, there will be a total of six parking spaces available.

The applicant points out that the current industrial warehouse does not conform to the character of the surrounding multi-family residential neighborhood and that the warehouse space has long been vacant and being attached to the residential dwelling in a residential area, it does not lend itself to any conforming industrial use. Converting the warehouse into a living space will make the subject property more consistent with the neighboring properties.

<u>CONCLUSION</u>: The surrounding neighborhood includes a mix of nonconforming multi-family housing properties. The subject property, which is also nonconforming, does not lend itself to any I-2 permitted uses therefore, it is preferable to maintain its character as a multi-family home. The proposed expansion of this nonconforming use for residential use adds value and helps bring this property into conformity with the rest of the neighborhood. The expansion of living space into the warehouse provides generous apartment sizes for

tenants. In addition, the property will contain enough parking spaces to handle the residents living there.

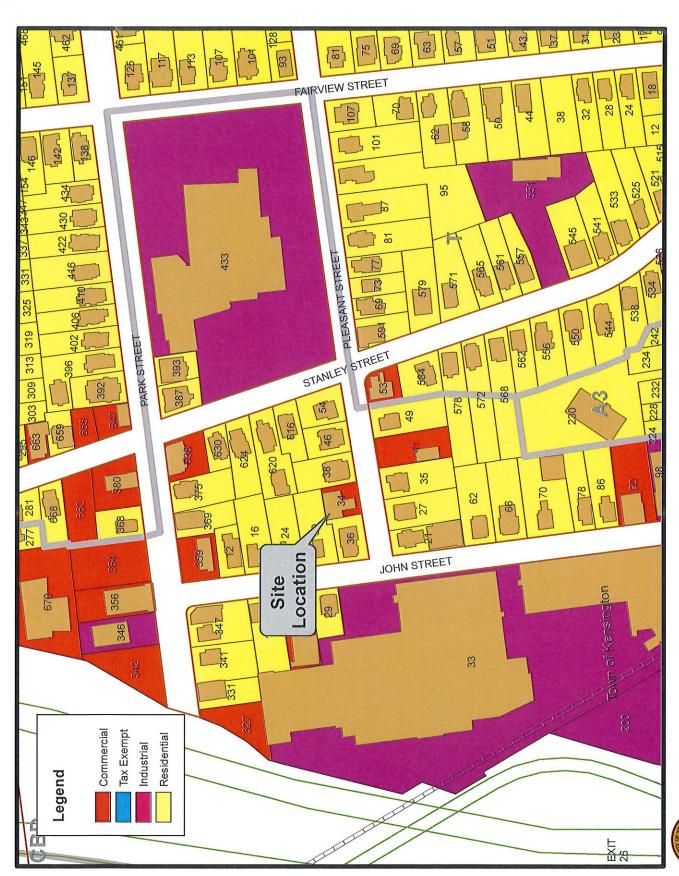
**RECOMMENDATION:** The City Plan Commission has no objections to granting the requested variance from a zoning standpoint. The Commission would however require that any variance approval be made subject to inspections and plan review to ensure that the conversion can be done in compliance with the applicable housing and building codes.

200 Feet

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Application # 4935

Date: Nov 2, 2021 Drawn By: CTL Checked By: SPS/DR

34 Pleasant Street

City of New Britain Department of Public Works Director - Mark E. Moriarty P.E.

# Application #4935 34 Pleasant Street

41 Pleasant Street	#3918	CERTIFICATE OF LOCATION APPROVAL To allow a motor vehicle dealer and general repair license. GRANTED: March 2001

APPLICATION: #4936, 4937 and 4938

APPLICANT: Frank Sgamatto

ADDRESS: 643 Farmington Avenue ZONE: B-2, Secondary Business

**BACKGROUND:** This request includes three individual applications related to the applicant's plans to open an indoor virtual golf facility and to serve beer and wine as an accessory to the business. The subject property is a recently constructed commercial space adjoining the new Family Dollar Store on Farmington Avenue, which is zoned B-2, Secondary Business. Application #4938 is the special exception request pursuant to Section 150-20-70, to allow the virtual golf facility, which is categorized under our zoning as "commercial recreation, not otherwise classified". Application #4936 is for a special exception under Section 150-20-60 to allow the alcohol permit as an accessory to the virtual golf operations. Associated with the application for an alcohol permit is Application #4937 for a variance to Section 270-40-40.10.50, which is the restriction against alcohol permits being issued with a 500 foot distance from a residential zone, school or religious institution.

**FINDINGS**: The applicant's submitted plans depict the 8.9 acre site with the location of proposed virtual golf facility occupying a space of approximately 3,750 square feet at the northern end of the recently completed commercial building that is shared with the 9,000 square foot Family Dollar Store. The rear of the property is occupied by the 85,000 square foot "Extra Space" self-storage facility, which was permitted on this location by variance #4769 in May 2017. The site has a total of 159 parking spaces with approximately half of the spaces centered near this newer commercial building.

The provisions of Section 150-20-70 allows approval of commercial recreation, such as this, by special exception, provided that the safeguards and conditions of Section 270-40-40.80 are met, which for commercial public recreation are primarily that there is no outside public address system and no spot lights other than normal parking lot lighting.

Section 150-20-60 allows special exception approval for alcohol permits to be granted, as an accessory to a permitted or approved special exception use. The applicant's proposal to offer beer and wine as an accessory to the virtual golf operations would seem to be an important part of the business model and a potentially desirable recreational outlet for the community, similar to a billiards hall or bowling alley. The requirements for approval of the alcohol permit are under the special conditions and safeguards of Section 270-40-40.10.50, which include a required 500 feet separation along the same street frontage from any residential zone, school or religious institution. In this case, the property abuts a residential T-zone property occupied by a single-family house at 633 Farmington Avenue. The distance from the door of the proposed business space to the residential property line is approximately 330 feet. The applicant claims that there is a hardship in that the location and the building space are well-suited for his business and that he has been unable to find any other suitable location, anywhere, that is not similarly encumbered. He further indicates that limiting the business to serving beer and wine will lessen any potential concerns that a full liquor permit establishment might pose for residential neighbors.

As written, subsection 270-40-40.10.10 additionally restricts alcohol permits within 1,500 of another alcohol license, except for new permits "allowed by special exception". This wording is interpreted as allowing the ZBA the discretion to review and deny new permit requests within 1,500 feet of other existing location, if the board determines there is an excessive proliferation of alcohol permits in a given area. The nearest existing alcohol permit locations within 1,500 feet radius are the restaurant permit at Town and Country Pizza directly abutting the property, and the grocery beer permit at Aldi's and the package store permit at Farmingdale Liquors, both located in the adjoining Farmingdale Plaza.

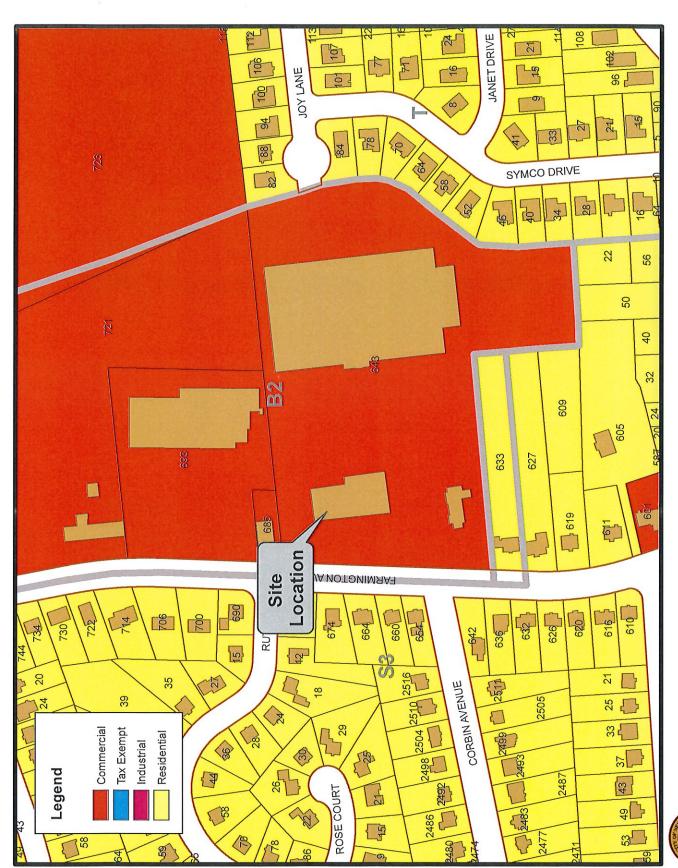
**CONCLUSION:** This business proposal would appear to be a desirable use for the space and compatible and complementary to the neighboring businesses. The location is in compliance with applicable provisions of Section 270-40-40.80 relating to commercial recreation operations. The license to serve beer and wine would seem to be essential to this type of establishment and despite being somewhat short of the 500 foot distancing requirement, it does not seem likely to negatively impact any adjoining residential property. This innovative type of commercial recreation is consistent with some of the City's general policy statements of encouraging new business and developing more entertainment activities and attractions, making the City a more interesting place to live and visit.

**RECOMMENDATION:** As stated above, the City Plan Commission is of the opinion that the proposed business is desirable and that the location is appropriate and suited to the use. The Commission therefore, supports the granting of these three requests - special exception #4938, to allow the virtual golf facility, per Section 150-20-70; special exception #4936, to allow the alcohol permit per Section 150-20-60 (with the understanding that the permittee is limited to service of beer and wine); and variance #4937 to the 500 foot separation from the neighboring residential zone.

200 Feet

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643 Farmington Ave

City of New Britain

Department of Public Works Director - Mark E. Moriarty P.E.

Application # 4936, 4937, 4938

Date: Nov 2, 2021 Drawn By: CTL Checked By: SPS/DR

# Application #4936, #4937 & #4938 643 Farmington Avenue

58 Symco Drive	#4423	VARIANCE To install a 15-diameter above-ground swimming pool in the front yard of an existing two-family house. GRANTED: July 2008
693 Farmington Avenue	#4746	VARIANCE To allow a grocery beer license for the sale of imported German beer. GRANTED: August 2016
693 Farmington Avenue	#4747	SPECIAL EXCEPTION  To allow a grocery beer license for the sale of imported German beer.  GRANTED: August 2016
643 Farmington Avenue	#4769	VARIANCE To utilize a former commercial building for a self-storage facility. GRANTED W/CONDITIONS: May 2017

APPLICATION: #4939, 4940 and 4941
APPLICANT: Jessica Angelo-Julien
ADDRESS: 105-B West Main Street

ZONE: CBD, Central Business District

**BACKGROUND:** The applicant is requesting a variance to Section 170-10, permitted uses in the CBD, Central Business District, in order to allow a hookah lounge (Application #4939); a special exception pursuant to Section 170-20-70 (Application #4940), in order to allow an alcohol permit in conjunction with the hookah lounge and the existing radio station and recording studio; and a variance to Section 270-40-40.10.50 (Application #4941), which is the restriction against alcohol permits being issued with a 500 foot distance from a residential zone, school or religious institution. The subject property is located on the northern side of West Main Street between Washington and High Streets in a business location now occupied by the DMTS radio station and recording studio. The location had previously been issued approval for serving alcohol in conjunction with events held at the radio station and recording studio, variance #4802 and special exception #4803, granted in August 2018. The alcohol permit was subsequently relocated to an adjoining business under the same ownership, "My Wife Didn't Cook" at 89 West Main Street.

FINDINGS: The storefront is one of several in a continuous block between 87 and 105 West Main Street. On the easternmost part of the property is a three-story, mixed-use building that was constructed around 1920, with several storefronts and 18 newly created residential apartments on the two upper floors. The western portion of the property is occupied by a slightly newer building constructed in 1930, single-story in height and having three storefronts with total floor area of approximately 6,600 square feet. The middle storefront is approximately 2,000 square feet in area and was converted in 2018 for use as a recording studio and internet radio station. At that time they also sought the alcohol permit in order to host music events at the station, the permit at that time was limited to beer and wine sales. The current applicant is seeking a similar arrangement where the primary operations would be the internet radio station and recording studios, with special events held regularly, typically on Friday or Saturday nights, where they plan to serve alcoholic beverages and provide hookah lounge accommodations. The applicant is seeking a full alcoholic beverage license this time, rather than a beer and wine permit.

The variance to allow the hookah lounge (#4939) is necessary because our zoning ordinances do not specifically allow hookah lounges and zoning states that any use not expressly permitted in the ordinance is presumed to be prohibited. The applicant implies that hookah lounges are a more recently evolving type of use and that our zoning may be outdated in not addressing them. She further indicates that they are a use group that is complementary to the radio station and recording business and consistent with the goals of creating more vibrant nightlife activities in the City's downtown.

Relative to the special exception for a liquor permit (#4940) previously noted, the City Plan Commission supported the 2018 permit granted for this location under similar circumstances, as it was consistent with the City's goals of encouraging more economic vitality in the downtown. It is noted the Commission was more comfortable with that being a beer and wine permit at that time, rather than a full liquor permit. For this request, the applicant

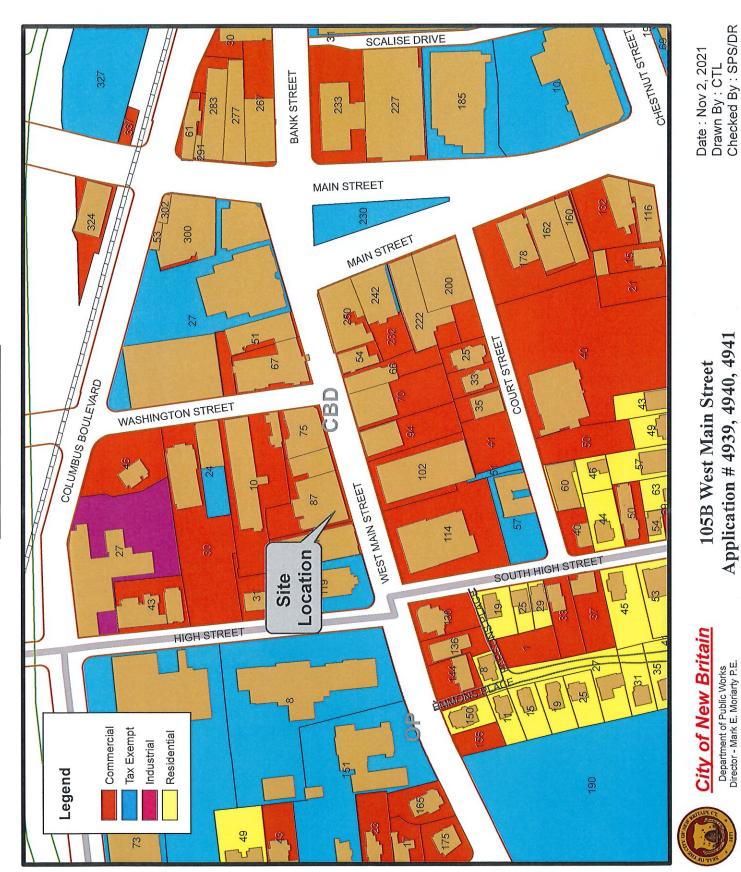
indicates that the site meets all the requirements for approval, except for the required separation from the nearby churches. She further indicates that business will be conducted in full compliance with applicable liquor control laws and that security will be hired for the occasions when events are held. Regarding the variance to 270-40-40.10.50, there are two nearby churches fronting at 94 and 119 West Main Street. The hardship claim made is that the number of churches in and around the downtown make it nearly impossible to find a location that complies with the 500-foot requirement of Section 270-40-40.10.50. She further suggests that the hours the events are held won't conflict with the church activities.

**CONCLUSION:** In general, the City Plan Commission policy has been to encourage the development of a more vibrant nightlife in the downtown, including restaurants, nightclubs and music venues, provided they are in a suitable location and appropriately managed. The Commission is also aware that the ability to be able to serve alcohol is often an important component in the success of a restaurant or music venue. This proposal could potentially be a desirable and beneficial development for the downtown, provided that it is properly controlled and managed in compliance with applicable liquor control laws and provides for security, as the applicant has indicated. The Commission's attitude however, has been less accommodating towards hookah lounges and has recommended against the several requests made in recent months. Presently staff is considering a moratorium and undertaking research to draft zoning regulations and ordinances specifically related to hookah lounges.

**RECOMMENDATION:** The City Plan Commission is generally supportive of this endeavor and would have no objections to re-establishing the previously approved alcohol status, that is the granting of the special exception (#4940) for alcohol sales, and the related variance on the 500 foot separation (#4941), but only if approval is made subject to the certain specific conditions, including: a.) service limited to beer and wine only; b.) no bar seating; c.) drink service being conducted in compliance with all pertinent liquor control laws; and d.) security being hired whenever events are held. The Commission recommends against the granting of the variance for the hookah lounge, (#4939), at this time, pending further review and potential adoption of specific ordinances for such activities. Depending on the successful conduct of this business, the Commission would not rule out possibly supporting a hookah lounge and/or an upgrade to a full liquor licensing sometime in the future.

200 Feet

100



Application # 4939, 4940, 4941 105B West Main Street



## Application #4939, #4940 & #4941 105B West Main Street

31 High Street	#4187	VARIANCE To max sign height and min setback to allow a business identification sign. GRANTED: June 2005
105B West Main Street	#4657	SPECIAL EXCEPTION  To allow issuance of a package store permit.  DENIED: November 2013
105B West Main Street	#4658	VARIANCE To allow issuance of a package store permit. DENIED: November 2013
105B West Main Street	#4802	VARIANCES To allow an entertainment venue/night club. GRANTED: August 2018
105B West Main Street	#4803	SPECIAL EXCEPTION  To allow a permit to serve alcoholic beverage for an entertainment venue/night club.  GRANTED W/CONDITIONS: August 2018

APPLICATION: #

#4942

APPLICANT:

Forrest E. Crisman, Jr. for 171 South Street, LLC

ADDRESS:

171 South Street

ZONE:

I-2, General Industry

**BACKGROUND:** The applicant is appealing a decision of the zoning enforcement official, pursuant to Section 270-30-30, citing Section 200-10, which is the permitted uses section for the I-2 zoning district. The appeal is of a cease and desist order issued by the director of licenses, permits and inspections for the rock and soil processing activities taking place at 171 South Street, which is a large parcel, approximately 11.6 acres in area situated on the south side of South Street adjoining the former New Britain Machine property. The area is zoned I-2 General Industry, which does not permit earth and materials processing. The appellant's contention is that the cease and desist order declares that the processing activities taking place are in violation of Section 200-10, while at the same time the appellant was issued site plan approval on August 11, 2017 which specifically includes "earth materials processing and sales yard".

**FINDINGS**: In 2010, a prior owner was granted site plan approval that involved removal of substantial volumes of materials from the site to level the parcel and create a building pad for several small or medium sized industrial buildings. Associated with his development plan was the understanding that the rock excavated from the site would be processed there, to be removed and sold. Operations proceeded for several years and then ceased for some period of time. A subsequent purchaser in late 2016 picked up operations and appears to have brought in a landscaping materials processing firm, which in addition to processing materials excavated from the site, began bringing in materials to be processed and sold or utilized off site. In 2017, the nature of the operations raised concerns relative to traffic and off-site dust and the fact that the outdoor processing activities taking place were not permissible, except those done in conjunction with the earth removal operations related to site preparation.

Zoning enforcement initiated communications with the owner to gain better control of the operations and to bring the project back into compliance with zoning. The property owner had a revised plan drawn that included three phases, with the first two phases taking place along the eastern portion of the site bordering the New Britain Machine property's western access driveway and showing four 6,000 to 12,000 square foot industrial buildings with adjoining parking. Phase 3 was to be the development of a landscaping materials processing and storage area, a 25,000 square foot building and a vehicle and equipment storage area. A site plan approval was issued for the August 2, 2017 plan, with the apparent intention, according to some city correspondence, being that approval of the materials processing operations shown in Phase 3 would first require Zoning Board of Appeals approval for a variance to Section 200-10 and that any other materials processing taking was supposed to be related to Phase 1 and 2 site preparations.

**CONCLUSION:** Section 40-10-10 of the zoning ordinances, regarding application of use regulations, states that "no building or structure or part thereof and no lot or land or part thereof shall hereafter be used, except for a purpose specifically permitted by the Use Regulations herein prescribed for the District in which such building or structure, lot or land is

located..." Processing of earth materials is not a specifically permitted use in the I-2 zone or in any other zoning district and, accordingly, is deemed to be prohibited, unless allowed by variance. The 2017 site plan approval may have been unclear in not specifying that any materials processing taking place on the site would require ZBA variance approval or otherwise be limited to processing of materials removed for site preparation for the development.

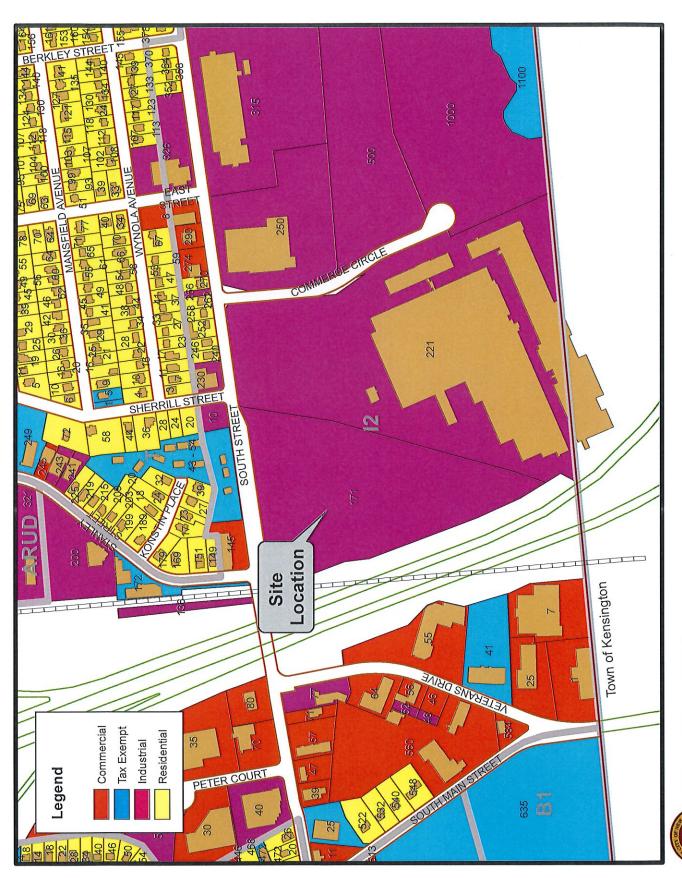
**RECOMMENDATION:** It seems that the August 8, 2017 site plan approval was either in error or just not clearly worded and therefore open misinterpretation. Regardless, the materials processing activities taking place on site are not permissible under zoning, without a variance. It is recommended that the property owner and his tenant business operators cooperate with zoning officials and work to expediently bring the site into full compliance with the zoning. This would entail immediate installation of appropriate soil erosion and sedimentation control measures designed specifically to the site and an application to Zoning Board of Appeals for a variance to allow the processing of materials on-site, if this use is proposed to remain.

400 Feet

0

200

9



City of New Britain

Department of Public Works Director - Mark E. Moriarty P.E.

171 South Street

Application # 4942

Date: Nov 2, 2021 Drawn By: CTL Checked By: SPS/DR

# Application #4942 171 South Street

145 Stanley Street	#4531	VARIANCE To allow a tattoo parlor and piercing plaza in a small commercial plaza. DENIED: September 2010
221 South Street	#4612	SPECIAL EXCEPTION  To allow another sign face to be added to an existing advertising billboard.  GRANTED: November 2012
171 South Street	#4821	SPECIAL EXCEPTION  To permit the installation of a two-sided advertising billboard on an I-2 zoned property.  GRANTED W/CONDITIONS: May 2019
171 South Street	#4822	VARIANCE To allow a digital electronic signboard on the sign. GRANTED: May 2019