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**ZONING BOARD OF APPEALS
COMMON COUNCIL CHAMBERS - CITY HALL
NOVEMBER 15, 2016 5:00 PM**

ZBA Case No.: 54-16
1204 Mary Street
Applicant: Vahid Cejvanovic
Owner: Vahid Cejvanovic

Zone: RT-1
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to legitimize the construction of a shed at the above referenced property.

The applicant has constructed a 10' x 16' shed in the rear of the property. In accordance with Section 2-29-491 of the Zoning Ordinance of the City of Utica, 100 sf is the maximum allowable size for an accessory structure in a residential zoning district. The applicant is seeking an area variance in order to increase the size of the shed to 160 sf.

In accordance with Section 2-29-495 of the Zoning Ordinance of the City of Utica, no accessory structure or use which exceeds six (6) feet in height shall be located closer than a distance equal to its height from any side or rear property line. The height of the shed is 8'4". The applicant has approximately 4' in the rear and 10' from the side property line, therefore, the applicant will require an area variance for the reduction in the rear yard setback.

ZBA Case No.: 55-16
630 Lansing Street
Applicant: Mustafa Andelija
Owner: Mustafa Andelija

Zone: RM-1
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to erect a fence at the above referenced property.

The applicant is proposing to replace the existing chain link style fence around the perimeter of the property with a 6' wood stockade style fence. The applicant will install the new proposed fence at the inside edge of the sidewalk where the existing posts are located for the chain link fence.

In accordance with Section 2-29-447 of the Zoning Ordinance of the City of Utica, all solid fences measuring more than three (3) feet high are prohibited in the front yard. Therefore, the applicant will be required to receive an area variance for the height and location of the fencing.

In accordance with Section 2-29-581 of the Zoning Ordinance of the City of Utica, visibility requirements for corner lots - no obstruction to vision, other than an existing building, post, column or tree, exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 30 feet distant from their points of intersection.

ZBA Case No.: 56-16
329 South Street
Applicant: Sweeter Thaw
Owner: Sweeter Thaw

Zone: CN
Special Use Permit
Area Variance

Pursuant to Section 2-29-68 of the Zoning Ordinance of the City of Utica, the applicant is seeking a special use permit and an area variance in order to expand an auto related use at the above referenced property.

The applicant is proposing to construct an 18' x 36' (648 sf) addition to the existing auto related business. In accordance with Section 2-29-88 whenever property is nonconforming for any reason and the proposed addition or enlargement cannot be approved by the Commissioner of Codes Enforcement in accordance with the provisions of Subsections 2-29-88(e) and (f), then the proposed addition or enlargement may be authorized only by means of a special use permit or by means of both a variance and a special use permit.

In accordance with Section 2-29-191 of the Zoning Ordinance of the City of Utica, the minimum rear yard setback in a neighborhood commercial zoning district is 25'. The applicant will be required to receive an area variance for the reduction in the rear yard setback to 18'4".

ZBA Case No.: 57-16
1435-1437 Francis Street
Applicant: Robert Wittman
Owner: Robert Wittman

Zone: RT-1
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to construct two parking areas in the front of the home at the above referenced property.

The applicant is proposing to utilize two spaces between the sidewalk and the house for parking of two cars. In accordance with Section 2-29-442 of the Zoning Ordinance of the City of Utica, in residential districts or properties adjoining residential districts, parking is prohibited in all front yards. The applicant has been denied an on-street parking permit, therefore is requesting an area variance in order to park the two cars for this residence.

ZBA Case No.: 58-16
816 Herkimer Road
Applicant: Mark Vivacqua
Owner: Mark Vivacqua

Zone: RS-1
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to construct a carport at the above referenced property.

The applicant is proposing to construct a 24' x 25' (600 sf) carport in the rear of the property. In accordance with Section 2-29-492 of the Zoning Ordinance of the City of Utica, the maximum area of a carport shall not exceed 220 square feet. The applicant will be required to receive an area variance for the increase in the size of the carport. The proposed carport will be located completely in the rear of the house and will not be visible from the street.

ZBA Case No.: 59-16
410 Mohawk Street
Applicant: Chong Lin
Owner: Chong Lin

Zone: CN
Special Use Permit
Area Variance

Pursuant to Section 2-29-68 of the Zoning Ordinance of the City of Utica, the applicant is seeking a special use permit and an area variance in order to operate a neighborhood convenience store at the above referenced property.

In accordance with Section 2-29-4 of the Zoning Ordinance of the City of Utica, a Neighborhood Convenience Store is defined as any retail sales business of less than 6,000 square feet of gross floor area per floor which specializes in providing household products and foods and may also provide for any or all of the following as an accessory use: the sale and/or rental of audio/video recordings of any format, provided that an adult-oriented business is specifically prohibited; the preparation and sales of delicatessen sandwiches and foods; and the use of no more than two amusement devices such as pinball machines, video games or other similar devices. Neighborhood convenience stores shall not include the dispensing of gasoline or other motor vehicle fuels.

In accordance with Section 2-29-605 of the Zoning Ordinance of the City of Utica, neighborhood convenience stores shall be special permit uses within the Neighborhood Commercial (C-N) Zoning District. No such use shall be located within 2,000 linear feet of a similar existing use regardless of the zoning district in which such existing use is located and measured from lot line to lot line. As part of the application for a special use permit to the Zoning Board of Appeals, the applicant shall submit a development plan that addresses the following: days/hours of operation; hours of deliveries and services (i.e., trash removal, snow plowing, etc.); provisions for parking, both on- and off-street; provisions to manage and regulate potential impacts of use, including but not limited to: litter and refuse by store patrons, excessive noise, loitering, crime prevention; signage, including both permanent and advertising/promotional signage; staffing; landscaping; and a building floor plan.

The applicant is proposing to use the first floor for a fresh produce and fresh meat market. Meats which comply with Kosher and Halal food requirements will be sold along with canned food and household products such as paper products and detergent in bulk. No tobacco products and no lottery tickets will be sold at this location. The applicant is also proposing to sell wood pellets in bulk.

The proposed hours of operation are 8:00 am – 8:00 pm seven days per week. There will be approximately six employees.

ZBA Case No.: 60-16
437 Keyes Road/1223 Georgetown
Applicant: Andrea Cappelli
Owner: Andrea Cappelli

Zone: RS-2
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to erect a fence at the above referenced property.

The applicant is proposing to erect a 6' high wood stockade style fence which will extend off one side of the home and wrap around the rear of the property and connect at the other side of the home. The proposed fence will be erected at the property line on the Georgetown Avenue side of the property. The property line begins at the end of the City right-of-way which is approximately 18' from the edge of the pavement.

In accordance with Section 2-29-447 of the Zoning Ordinance of the City of Utica, all solid fences measuring more than three (3) feet high are prohibited in the front yard. Therefore, the applicant will be required to receive an area variance for the height and location of the fencing.

ZBA Case No.: 61-16
Intersection of Dwyer, Culver and Gilbert Street
CTM: 319.15-1-4, CTM: 319.15-1-8
CTM: 319.15-1-6.1,CTM: 319.15-1-6.2
Applicant: DePaul
Owner: Evelyn H. Jones

Zone: I-1
Special Use Permit
Area Variance

Pursuant to Section 2-29-68 of the Zoning Ordinance of the City of Utica, the applicant is seeking a special use permit in order to construct an apartment building at the above referenced property.

The applicant is proposing to demolish the existing one story vacant warehouse and construct a three-story multi-family apartment building which will house 60 units. Parking will be available on site along with outdoor resident courtyard areas.

The project will be owned and operated by DePaul. The applicant proposes to have approximately seven full time employees at this location. Access will be from Dwyer Avenue and Gilbert Street.

In accordance with Section 2-29-383 of the Zoning Ordinance of the City of Utica, the minimum parking spaces required for a multi-family residential structure is 1.5 spaces per unit. Although, an area is landbanked for future parking if needed on the site, the applicant will be required to receive an area variance for the reduction in the parking spaces from 90 to 60 spaces.

ZBA Case No.: 62-16
1155 Mohawk Street
Applicant: K Music Inc.
Owner: Kessel Brent Corp.

Zone: CC
Use Variance

Pursuant to Section 2-29-67(d)(2) of the Zoning Ordinance of the City of Utica, the applicant is seeking approval of a use variance in order to legitimize the operation of an auto-related use at the above referenced property.

The applicant has been operating a U-Haul rental business at the above referenced location. In accordance with Section 2-29-233 of the Zoning Ordinance of the City of Utica, vehicle rental is a permitted use within the Auto Overlay district. The above referenced property does not fall within the Auto Overlay district.

The applicant has stated that since 1990 some type of auto related operations have been conducted at this location. Some examples are installation of care stereos, remote care starters, window tinting, hand car washing/waxing, vehicle wraps, auto glass, vinyl detailing, and hub cap/rim dressings. A 10' garage door is in place to accommodate these types of services.

The U-Haul business hours are Monday – Friday 10:00 am – 5:00 pm, Saturday 10:00 am – 2:00 pm and Sundays by appointment. This business includes rental of vans, trucks and trailers.

ZBA Case No.: 63-16
711 Dawes Avenue
Applicant: Frank Gentile
Owner: Frank Gentile

Zone: RS-1
Area Variance

Pursuant to Section 2-29-67(d)(1) of the Zoning Ordinance of the City of Utica, the applicant is seeking an area variance in order to construct a deck at the above referenced property.

The applicant is proposing to construct an 8' x 24' deck on the front of the home. In accordance with Section 2-29-171 of the Zoning Ordinance of the City of Utica, the minimum front yard setback in a Residential Single-Family zoning district is 25' where the applicant is proposing approximately 12' from the front property line. The applicant will be required to receive an area variance for the reduction in the front yard setback.

ZBA Case No.: 53-16
401 South Street
Applicant: Dally Alanazi
Owner: Ahmad Hassan

Zone: CN
Special Use Permit
Area Variance

Pursuant to Section 2-29-65 of the Zoning Ordinance of the City of Utica, the applicant is seeking a re-hearing of a Special Use Permit and an Area Variance in order to operate a neighborhood convenience store at the above referenced property. The previous application was denied by the Zoning Board of Appeals at the September meeting.

The applicant has stated that only Arabic and Middle Eastern foods will be sold at this location.

In accordance with Section 2-29-65 of the Zoning Ordinance of the City of Utica, a motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

Pursuant to Section 2-29-68 of the Zoning Ordinance of the City of Utica, the applicant is seeking a special use permit and an area variance in order to operate a neighborhood convenience store at the above referenced property.

In accordance with Section 2-29-4 of the Zoning Ordinance of the City of Utica, a Neighborhood Convenience Store is defined as any retail sales business of less than 6,000 square feet of gross floor area per floor which specializes in providing household products and foods and may also provide for any or all of the following as an accessory use: the sale and/or rental of audio/video recordings of any format, provided that an adult-oriented business is specifically prohibited; the preparation and sales of delicatessen sandwiches and foods; and the use of no more than two amusement devices such as pinball machines, video games or other similar devices. Neighborhood convenience stores shall not include the dispensing of gasoline or other motor vehicle fuels.

In accordance with Section 2-29-605 of the Zoning Ordinance of the City of Utica, neighborhood convenience stores shall be special permit uses within the Neighborhood Commercial (C-N) Zoning District. No such use shall be located within 2,000 linear feet of a similar existing use regardless of the zoning district in which such existing use is located and measured from lot line to lot line. As part of the application for a special use permit to the Zoning Board of Appeals, the applicant shall submit a development plan that addresses the following: days/hours of operation; hours of deliveries and services (i.e., trash removal, snow plowing, etc.); provisions for parking, both on- and off-street; provisions to manage and regulate potential impacts of use, including but not limited to: litter and refuse by store patrons, excessive noise, loitering, crime prevention; signage, including both permanent and advertising/promotional signage; staffing; landscaping; and a building floor plan.

The owner is currently operating a smoke shop at this location and was seeking to sell other food products as accessory to this use, however was denied by the Codes Department.

The proposed hours of operation will be 8:00 am to 12:00 am. On street parking will be utilized for the customers. The applicant is proposing to sell Middle Eastern items along with candy items, snacks, cold and hot drinks, lotto tickets, ice cream products, tobacco products; middle eastern items such as dairy products, bread, frozen foods, pickles, olives, dates, hummus, kibbeh, tabbouleh, clothing, oils and incense and hookahs, pipes and electronic cigarettes.

The applicant is seeking an Area Variance to waiver from the 2,000 linear feet requirement. The applicant has demonstrated that there are several convenience stores in the immediate area; one directly across the street.