

ZONING BOARD OF APPEALS

MARCH 20, 2023 MEETING OF ZONING BOARD OF APPEALS

MINUTES

Present: Chairperson Scott DeMane, Kellie Porter, P.J Whitbeck, Christine Hubbell, W. Kim Hartshorn
Kyle Burdo, Housing Code Inspector
James Welch, Housing Code Inspector

Absent: Elizabeth Jent

Also present: George Baltes
Ryan Brienza
Yuri Borharevich
Darlene Dubuke
Eli Schwartzberg, Vilas Home LLC

Mr. DeMane called the meeting to order at 7:04 PM. The following items were on the agenda.

<u>APPEAL</u>	<u>APPLICANT</u>	<u>REQUEST</u>
2341	GWB SERVICES LLC 102 SHARRON AVENUE	CLASS A USE VARIANCE REQUEST TO ESTABLISH A TEST AND REPAIR CENTER FOR COMPUTERS, INCLUDING CRYPTOCURRENCY MINING SYSTEMS
2342	GWB SERVICES LLC 102 SHARRON AVENUE	SPECIAL USE PERMIT REQUEST TO ESTABLISH A TEST AND REPAIR CENTER FOR COMPUTERS, INCLUDING CRYPTOCURRENCY MINING SYSTEMS
2343	XBTO MINING LLC 46 POWER DAM WAY	SPECIAL USE PERMIT REQUEST FOR EXPANSION OF EXISTING DATA CENTER
2344	YURI BOUHAREVICH 28 CITY HALL PLACE	ADMINISTRATIVE REVIEW APPEALING BUILDING INSPECTOR'S OFFICE DECISION THAT FIRST FLOOR APARTMENTS ARE NOT AN ALLOWABLE USE IN THE CENTRAL BUSINESS DISTRICT AT 28 CITY HALL PLACE
2345	DARLENE DUBUKE 28 MACDONOUGH STREET	CLASS B AREA VARIANCE REQUEST FOR A DETACHED 14 FT X 20 FT AMISH SHED IN THE NORTHWEST REAR CORNER OF PROPERTY CREATING OVERAGE IN LOT COVERAGE
2346	VILAS HOME LLC 61 BEEKMAN STREET	CLASS B AREA VARIANCE REQUEST TO REPLACE EXISTING FREE-STANDING SIGN WITH NEW SIGNAGE IN SAME LOCATION, SIGNAGE AREA GREATER THAN 24 SQ FT

The agenda was heard in the following order:

Appeal 2341
Appeal 2342
Appeal 2343
Appeal 2344
Appeal 2345
Appeal 2346

The **first and second** items heard were appeals #2341, Class A variance request to establish a test and repair center for computers, including cryptocurrency mining systems and #2342, Special Use Permit request to establish a test and repair center for computers, including cryptocurrency mining systems at 102 Sharron Avenue, applicant George Baltes (GWB Services LLC).

Zoning board regular member Kellie Porter has a personal connection to the applicant, but states she feels she could make an unbiased decision in this case. Applicant agrees to proceed with Ms. Porter as a voting member for appeals #2341 and #2342.

Discussion:

- Applicant, George Baltes, presented use appeal and special permitting appeal.
- Board and applicant discussion of proposed site usage.
 - Repair center for general computer systems.
 - Cryptocurrency mining equipment testing.
- Discussion of facility layout and proposed site plan.
- Review of requirements for use variance; unnecessary hardship criteria.
 - Discussion of information required to prove hardship.
 - Applicant presents uniqueness of this property and difficulty to have any other type of allowable zoned business be successful at this site.
 - Applicant discusses financial hardship for this business without the capability of cryptocurrency mining system testing. Contracts have already been obtained.
- Board and Applicant discussion regarding cryptocurrency mining and mining system testing and current zoning requirements.
- Board and Applicant discussion regarding lack of proof of hardship documentation to warrant a use variance for this business proposal.

Public Comment:

Written public comment received via email in opposition to Appeal #2341 and #2342, read into record, and attached as an addendum to minutes.

MOTION:

By: K. Porter, seconded by: C. Hubbell

FOR APPEAL #2341 AND #2342 MOTION TO POSTPONE TO THE APRIL MEETING OF THE ZONING BOARD OF APPEALS ON THE BOARD'S BEHALF

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

The **third** item heard was appeal #2343, Special Use Permit request for expansion of existing data center, XBTO Mining, LLC, 46 Power Dam Way; Ryan Brienza, applicant.

Discussion:

- Applicant presented special use permit appeal.
- Board and applicant discussion of proposed expansion plan.
 - Location of site on property.
 - Amount of increased power need for expansion, concern for municipality electric rates.
 - Rider A protection for residents of city.
 - Increased noise level concerns and monitoring.
 - Noise suppression systems discussed.

Public Comment:

Ernie Gillespie, City Resident: Lives across the road from data center site. In summertime noise from fans is noticeable and disruptive at his home. Discussed City noise ordinance decibels and "strange noise for long lengths of time." Expresses continued concern regarding local resident's property that was re-zoned industrial in the past and the effects this decision has made to these residents. Use of a lot of electricity at this site and lack of return to the city, only hires 3-4 employees.

Ray Hockersmith, City Resident: Discusses proximity of his home across the river to the data center site. Suggests if baffles or more trees were planted, may help with reducing noise. Concern more fan structures on building will increase noise from this site.

Julie Baughn/City Council member, speaking as a City Resident: Shares research data and concerns regarding the environmental impact of cryptocurrency mining with respect to total global electricity usage and environmental footprint of bitcoin mining. Concern with increased bitcoin mining in communities in Plattsburgh.

Carla Brancato, City Resident: Would like board to strongly consider that with the expansion of this business, that this business have a plan in place to increase their noise silencing mechanisms commensurate with expansion prior to plan approval.

Laverne Hicks, City Resident: Refers to a prior applicant at this location stating there was equipment on site to reduce sound, but was never used. Questions if this equipment was ever utilized.

Written public comment in opposition received, read into record, and attached as an addendum to minutes.

SEQR has not been fully completed by applicant. Appeal review paused while applicant finished form at request of Board Chair.

MOTION:

By: K. Porter, seconded by: P. J. Whitbeck

FOR APPEAL #2343, AFTER REVIEW OF THE FULL ENVIRONMENTAL ASSESSMENT FORM WE FIND THERE IS LITTLE OR NO IMPACT FROM THS PROJECT AND THE CHAIR MAY SIGN PAGE 13.

ALL IN FAVOR: 4

OPPOSED: 1

*MOTION PASSED
(W. Kim Hartshorn voted in the negative)*

MOTION:

By: C. Hubbell, seconded by: P. J. Whitbeck

MOTION THAT THE BOARD REVIEWED APPEAL #2343, XBTO MINING LLC, AND APPROVES THE SPECIAL USE REQUEST FOR EXPANSION OF EXISTING DATA CENTER, WITH THE STIPULATION PROVISIONS BE MADE THAT THE SOUND LEVELS DO NOT INCREASE FROM CURRENT LEVELS.

ALL IN FAVOR: 3

OPPOSED: 2

MOTION PASSED

(K. Porter, W. Kim Hartshorn voted in the negative)

The **fourth** item heard was appeal #2344, Administrative review appealing building inspector's office decision that first floor apartments are not an allowable use in the central business district at 28 City Hall Place; Yuri Bouharevich, applicant.

Discussion:

- Applicant presented appeal and uniqueness of this property.
- Board, Building Inspector Staff, and applicant discussion
 - Property.
 - Uniqueness of property/situation.
 - Proposed plan for apartments in building.
 - City codes regarding apartments above first floor in business district.

Public Comment:

Darlene Dubuke, City Resident: Speaks in favor of the applicant. States provision would make sense in a Margaret Street downtown situation in the spirit of the law, but this situation seems to be a separate and distinct issue. This area proposed does not seem to be amenable to a business storefront.

MOTION:

By: K. Porter, seconded by: Christine Hubbell

FOR APPEAL #2344, MOTION TO AGREE WITH THE CITY OF PLATTSBURGH BUILDING INSPECTOR'S STATEMENT THAT THE USE SOUGHT FOR THIS APPEAL IS THAT APARTMENTS ARE TO BE UTILIZED ABOVE THE FIRST FLOOR ONLY.

ALL IN FAVOR: 4

OPPOSED: 1

MOTION PASSED

(W. Kim Hartshorn voted in the negative)

The **fifth** item heard was appeal #2345, Class B area variance request for a detached 14 ft x 20 ft Amish shed in the Northwest rear corner of property, creating overage in lot coverage, 28 MacDonough Street; Darlene Dubuke, applicant.

Discussion:

- Applicant presented appeal details, situation, and financial hardship.
- Board and applicant discussion.
 - Location of shed on property.
 - Lot coverage and calculations.

Public Comment:

Jesse Feiler, City Resident: Has concern this garage/shed was built without obtaining proper permits. Personal objection to proper permitting process not being followed. Concern regarding decreased amount of open space in this neighborhood.

MOTION:

By: K. Porter, seconded by: P. J. Whitbeck

FOR APPEAL #2345, AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM, WE FIND THAT THERE IS LITTLE TO NO IMPACT AND THE ZONING BOARD CHAIR MAY CHECK PART 2 BOXES 1-11 AND SIGN IN PART 3.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION:

By: C. Hubbell, seconded by: K. Porter

MOTION THAT THE BOARD REVIEWED APPEAL #2345, 28 MACDONOUGH STREET, AND APPROVES CLASS B AREA VARIANCE REQUEST FOR THE EXISTING 14 FT X 20 FT SHED CREATING OVERAGE IN LOT COVERAGE.

ALL IN FAVOR: 2

OPPOSED: 3

MOTION DENIED

(S. DeMane, P.J. Whitbeck, C. Hubbell voted in the negative)

The **sixth** item heard was appeal #2346, Class B area variance request to replace existing free-standing sign with new signage in same location, signage area greater than 24 sq ft., 61 Beekman Street; applicant Eli Schwartzberg (Vilas Home LLC).

Discussion:

- Applicant presented plan.
- Board and applicant discussion.
 - Sign dimensions, materials, design.
 - Review of site plan, continued construction progress and location of sign on property.

Public Comment: *None*

MOTION:

By: P.J. Whitbeck, seconded by: C. Hubbell

FOR APPEAL #2346, AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM, THE BOARD CHAIR MAY CHECK LITTLE TO NO ENVIRONMENTAL IMPACT IN PART 2 BOXES 1-11 AND SIGN IN PART 3.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION:

By: K. Porter, seconded by: C. Hubbell

MOTION TO APPROVE THE INCREASE IN SIGNAGE FOR APPEAL #2346 WITH THE CONDITION THE SIGN BE PLACED IN ACCORDANCE WITH THE SITE PLAN SUBMITTED.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION:

By: K. Porter, seconded by P.J. Whitbeck

MOTION TO APPROVE JANUARY 17, 2023 MINUTES AS WRITTEN

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

(C. Hubble abstained – not present at January 17, 2023 meeting)

Motion to Adjourn:

By: K. Porter, seconded by P.J. Whitbeck

Adjourned at 9:43 PM

For the purpose of this meeting, this meeting was audio and video recorded. This is a true and accurate copy and transcription of the discussion. For a more detailed discussion, please see the recording.

Lisa Beebie
Secretary
Zoning Board of Appeals

ADDENDUM: WRITTEN PUBLIC COMMENT

COMMENTS FOR ZONING MEETING

sunshine19542@charter.net <sunshine19542@charter.net>

Thu, Mar 16, 2023 at 9:54 AM

To: Lisa Beebie <beebiel@cityofplattsburgh-ny.gov>

Cc: Mike Kelly <kelly.wmichael@gmail.com>, Jeff Moore <jmoore1748@gmail.com>, Elizabeth Gibbs <egibbs6781@gmail.com>, Julie Baughn <jewelsbaughn@yahoo.com>

Hi Lisa:

Below are my comments for Monday's zoning meeting:

I am totally against **Appeal #2343** for the following reasons:

1. As you know will increase their pull in electricity.
2. Also lots of the Long form SEQR is not filled out - which is a big red flag.
3. The noise from this data center is unacceptable. Go to the Adirondack Lane condo's and see how bad it is.
4. No new employees to be added - just taking city resources.

I am against **Appeal #2341** - Class A Variance to change the use at 102 Sharron and **Appeal #2342**. This is surrounded by housing and the zoning there should be changed to R-2. The application also says this new repair shop will have to run "the bit coins" to see if they work - will as you know increase electricity. Do not allow this to happen.

Please protect our city utilities from these businesses that give nothing back to the community.

Denise Nephew

Ward 2

February 10, 2023

Mr. Joseph McMahon
Building & Zoning Dept.
41 City Hall Place
Plattsburgh, NY 12901

Mr. McMahon,

I am writing regarding the Public Hearing February 13, 2023 requesting relief of the Zoning Ordinance via a Special Use Permit, Appeal 2343, at 46 Power Dam Way for XBTO Mining LLC to expand the existing data center. As an owner with property within 500 feet of the location seeking relief, I am against allowing any expansion.

In the past, the whine generated by the fans needed to cool the area was intrusive and more than a nuisance interrupting sleep and quality of life. I am not in favor of a business that utilizes excessive amounts of City of Plattsburgh electricity putting all city residents at risk of higher utility prices if our cap is exceeded, while not owning property in the city, paying taxes, nor employing substantial staff who would give back to the city.

Respectfully,



Susan Quinn
35 Adirondack Lane
Plattsburgh, NY 12901