BOARD OF ZONING APPEALS (BZA)

AGENDA

The regular monthly meeting of the BOARD OF ZONING APPEALS will be held at 5:30 p.m. on Tuesday, February 7, 2023. This meeting is open to the public and will be held in Common Council Chambers, Third Floor, City Hall, 108 E. Green Street, Ithaca, NY, and also conducted remotely using videoconferencing technology. In-person attendance at City Hall may be limited and will be permitted on a first-come, first-served basis. Members of the public are strongly encouraged to participate remotely. Virtual participation in public meetings is authorized by Part WW of Chapter 56 of the Laws of 2022 of New York State and Local Law 2022-05. More information, including the written procedures governing the use of videoconferencing technology, is available at http://www.cityofithaca.org/339/Boards-Committees.

For remote viewing/attendance: A live stream of the proceedings is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW2IVCnTrDg; a recording will made available through the same link following the conclusion of the proceedings. If you are a member of the public wanting to observe the meeting, please simply watch the live stream. If you are an interested party and would like to sign up to speak at the meeting or submit written comments, please see the instructions at the end of the agenda.

I. TELECOMMUNICATIONS APPEALS
   None

II. NEW APPEALS
   A. Appeal Number: 3234
      Address: 121-125 Lake Street
      Zone: R-3a
      Applicant: SWBR Architects
      Property Owner: 121-125 Lake Street LLC
      Public Hearing: Yes
      Description: Request for an area variance from §325-8, Column 8 – Height in Stories; Column 9 – Height in Feet; and Column 14/15 – Rear Yard to allow the construction of a five-story, 77-unit apartment building on the vacant east parcel of the former Ithaca Gun Factory site.

   B. Appeal Number: 3247
      Address: 309 E. Lincoln Street
      Zone: R-2b
      Applicant: Rick Page, Property Owner
      Public Hearing: Yes
      Description: Request for modification to the conditions of a previously-granted use variance to allow the restaurant use (currently the Lincoln Street Diner) to operate 7 days a week from 5:00 am – 8:00 pm.

If you have a disability and would like specific accommodation in order to participate, please contact the City Clerk’s Office at 274-6570 by 12:00 p.m., no later than 2 days (not including weekends and holidays) before the meeting.
III. CONTINUED APPEALS
None

IV. PRELIMINARY PRESENTATIONS & BOARD COMMENTS

V. APPROVAL OF MINUTES
None

VI. ADMINISTRATIVE MATTERS
A. No March 2023 Meeting
B. Next Meeting – April 4, 2023

6:25 PM

VII. ADJOURNMENT

6:30 PM

PLEASE NOTE: The Board may take a 10-minute break around 8:00 p.m., if the meeting will continue for more than two hours.

ACCESSING ONLINE MEETING MATERIALS
Parties interested in reviewing application materials prior to the meeting may visit the City’s website at http://www.cityofithaca.org/368/Board-of-Zoning-Appeals (select “Most Recent Agenda”), beginning one week before the scheduled BZA meeting. Please do not hesitate to contact our office if you have any questions or need any assistance accessing the materials.

COMMENTS & QUESTIONS
Interested parties are invited to speak or submit written comments on appeals that come before the Board of Zoning Appeals. The Board considers "interested parties" persons who live, work or own property within 750 feet of the property, who are authorized representatives of recognized adjacent neighborhood civic groups, or who are elected City officials. Interested parties wishing to be heard must register by 3:00 PM on the day of the meeting. To register, please send your name and address to mwilson@cityofithaca.org, subject line: “BZA Speaker Registration – February 2023”.

Interested parties may submit comments for public hearings by mail or email. All comments must be received by 3 p.m. on the day of the meeting, and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing and please include your name and address. All comments and questions can be emailed to Megan Wilson at mwilson@cityofithaca.org or call (607) 274-6550.
APPEAL # 3234
121-125 LAKE STREET

Appeal of SWBR Architects on behalf of property owner Visum Development for an area variance from Section 325-8, Column 8 - Height in Stories; Column 9 - Height in Feet; and Column 14/15 - Rear Yard requirements of the Zoning Ordinance. The applicant proposes to construct a new five-story, 77-unit apartment building on the east parcel of the former Ithaca Gun Factory site, located at 121-125 Lake Street. Prior to construction, the applicant will remediate the site, under the review of the NYSDEC. The project will include the construction of the apartment building and site improvements to create access to the adjacent City-owned natural area. The R-3a zoning regulations limit the height of the building to four stories and 40’. Due to the topography of the site, the proposed building is five stories in height, with the majority of the lowest level located below grade. Additionally, the building will be 49’ above grade plane in a district where a maximum of 40’ is permitted. The applicant also seeks a variance from the rear yard requirement of 50’. The proposed building will be located 26’ 7” from the rear property line at the narrowest point.

121-125 Lake Street is located in a R-3a district in which the proposed use is permitted. However, Section 325-38 requires that an area variance be granted before a building permit is issued.
# City of Ithaca Board of Zoning Appeals Worksheet

**Appeal Number**: 3234  
**Address**: 121-125 Lake Street  
**Use District**: R-3a  
**Date**: 2/7/2023  
**Applicant**: SWBR  
**Owner**: Visum  
**Application Type**: Area Variance

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<tr>
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<th>4</th>
<th>5</th>
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<th>8</th>
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<th>14/15</th>
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<td>Use</td>
<td>Accessory Use</td>
<td>Off-Street Parking</td>
<td>Off-Street Loading</td>
<td>Lot Area (Sq. Feet)</td>
<td>Lot Width (Feet)</td>
<td>Number of Stories</td>
<td>Height in Feet</td>
<td>% of Lot Coverage</td>
<td>Front Yard</td>
<td>Side Yard</td>
<td>Other Side Yard</td>
<td>Rear yard: % of depth or number of feet, whichever is less</td>
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<td>4</td>
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<td>5</td>
<td>25% or 50' but not less than 20'</td>
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**Notes:**
BOARD OF ZONING APPEALS (BZA) APPLICATION

1. TYPE OF APPEAL:
   - [ ] AREA VARIANCE
   - [ ] SPECIAL PERMIT
   - [✓] USE VARIANCE
   - [ ] SIGN VARIANCE
   - [ ] ACTION, DECISION, OR INTERPRETATION OF ZONING OFFICER

   APPEAL #: 3234 (FILLED IN BY STAFF)
   HEARING DATE: 2/7/2023
   BUILDING PERMIT #: 42858 (REQUIRED)
   RECEIPT #: 68612 (FILLED IN BY STAFF)

2. Property Address: 121-125 Lake Street Ithaca, NY 14850

   Use District: R-3a

   Owner’s Name: 121-125 Lake Street LLC
   Owner’s Address: 226 Cecil Malone Dr. Suite 3

   City: Ithaca
   State: NY
   Zip: 14850

   Erik Reynolds
   (SWBR Architects)
   Appellant’s Address: 387 East Main Street

   City: Rochester
   State: NY
   Zip: 14604

   Telephone: 585 232 8300
   E-Mail: ereynolds@swbr.com

3. Appellant’s Name:

4. Attach Reason for Appeal (see “Zoning Appeal Procedure Form”)

5. Appellant Certification: I certify the information submitted with the appeal is true to the best of my knowledge/belief; and I have read and am familiar with City of Ithaca Zoning Ordinance sections that apply to this appeal (incl. Section 325-40, describing the powers and duties of the Board of Zoning Appeals). I also acknowledge the Board of Zoning Appeals may visit the property and I specifically permit such visits.

   [✓] I have met/discussed this application with Zoning Division staff prior to submission.

   Applicant Signature

STATE OF NEW YORK
COUNTY OF TOMPKINS

Sworn to this 30th day of
November, 2022

[Signature]

Notary Public

Notary Public available at City Hall.

IMPORTANT: INCOMPLETE applications will be returned to the applicant and the applicant will have to reapply.

If ANOTHER CITY APPROVAL is required (e.g., Site Plan Review, Subdivision Review, Ithaca Landmarks Preservation Commission Review), this application will likely not be considered at the next scheduled BZA meeting date.

If an application is submitted and subsequent CHANGES are made to the proposal/project, a revised application will be required. The original application will not be considered a placeholder for the original BZA hearing date. Zoning Division staff will also not remove contents from earlier applications to complete a revised application. Applicants are responsible for ensuring all information necessary for processing a Zoning Appeal is submitted by the application deadline for a given BZA hearing date.
1. Ordinance Section(s) for the Appeal:

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2. Application of SEQR determination: ☒ Type 1  ☐ Type 2  ☐ Unlisted

3. Environmental Assessment form used:

- [ ] Short Environmental Assessment Form (SEAF)
- [ ] Full Environmental Assessment Form (FEAF)
- ☒ Completed by Planning Division at preliminary hearing for Site Plan Review
- [ ] Not Applicable (Type 2 Action)

4. A previous appeal ☐ has / ☒ has not been made for this proposal:

   - Appeal No. ________, dated ____________
   - Appeal No. ________, dated ____________
   - Appeal No. ________, dated ____________

5. Notes or Special Conditions:
ONLY SUBMIT THIS FORM IF ZONING APPEAL APPLICATION IS BEING SUBMITTED/SIGNED BY SOMEONE OTHER THAN CURRENT RECORD PROPERTY OWNER.

OWNER'S AUTHORIZATION FORM

ZONING APPEAL #: 3234

DATE: 12/1/22

TO: BOARD OF ZONING APPEALS (Ithaca, NY):

I (We) Todd Fox of 106 Crescent Place

Ithaca, NY 14850

(Name) (Street Address)

(City/Municipality) (State & Zip Code)

Owner of the property at 121-125 Lake St

(Street & Number)

☐ I am the sole owner of the above-mentioned property.

☐ This property is also owned by ________________________________

and I have a Power of Attorney to authorize this appeal (attach POA).

I do hereby authorize Eric Reynolds to appeal or request a Variance or Special Permit on my (our) behalf. I (we) understand the appeal will be heard at the ________________ meeting of the Board of Zoning Appeals.

(Signature)

STATE OF NEW YORK)
COUNTY OF TOMPKINS)

Sworn to this 1st day of December, 2022

Notary Public

MICHELLE LEE HARLAN
Notary Public, State of New York
Qualified in Tompkins County
Reg. No. 01HA0221100
My Commission Expires Apr. 26, 2026

Note to those signing this form:

(1) Owners authorizing another to present an appeal on their behalf should be aware the Board may, in granting relief, add reasonable conditions which then become binding on the property.

(2) Especially where a Variance is being sought, the owner may be the only person with detailed information about the property that is essential to the appeal. In such a case, authorizing another person to appeal may be detrimental to the appeal, unless the owner is either present at the hearing or sends another person fully prepared to answer questions about the property and the feasibility of using it consistent with the Zoning Ordinance.
NOTICE OF APPEAL
REGARDING ZONING OR SIGN ORDINANCE
CITY OF ITHACA, NEW YORK

APPEAL NO. 3234

TO: Owners of Property within 200 feet of 121-125 Lake Street Ithaca, NY 14850 and others interested.

(from property address)

FROM: Visum Development applicable to property named above, in R-3 zone.

(name of person or organization making appeal)

REGARDING: Area Variance Use Variance Sign Variance

City regulations require you be notified of this appeal to the Board of Zoning Appeals (BZA), as described in the attached letter and provide the opportunity for you to comment on it and/or attend the meetings listed below. Anyone considered an interested party may speak for or against the appeal at the meetings listed below, or submit a written statement to the BZA before its designated meeting. There is a time limit of three (3) minutes for each interested party to address the BZA during the Public Hearing portion of the meeting.

The Board of Zoning Appeals bases its decision primarily on the written evidence submitted and presented to it, the testimony of interested parties, and zoning and legal considerations. The written case record will be available for review on the City’s website (http://www.cityofithaca.org/368/Board-of-Zoning-Appeals) under “Most Recent Agenda,” beginning one week before the scheduled BZA meeting. This case has also been referred to the City’s Planning and Development Board that will advise the BZA, if granting the relief sought by the appellant will affect long-term planning objectives. The date of the Planning Board’s meeting regarding this appeal is also listed below.

The PLANNING BOARD will consider this case on 1/24/23 at 6:00 P.M. via the online platform Zoom. A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW21VCnTrDg. To provide comments to the Planning Board on this appeal, please submit written comments to Anya Harris at aharris@cityofithaca.org, and your comments will be forwarded to the Board members for their review.

The BOARD OF ZONING APPEALS will consider this case on 2/7/23 at 5:30 P.M. in Common Council Chambers of City Hall. A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW21VCnTrDg. There will be a public hearing on this

1. Submit comments by email no later than 4 p.m. on the day of the meeting to zoningdivision@cityofithaca.org and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing. You must provide your name and address.

2. To speak at the meeting, sign up and receive instructions by contacting zoningdivision@cityofithaca.org or Anya Harris at (607) 274-6550 or aharris@cityofithaca.org. You must provide your name and address.

Signature of Appellant

387 East Main Street
Rochester NY, 14604

Address

3/14/2022

Date
Visum Development and its partners SWBR (Architects) and TG Miller (Civil Engineers) are seeking to develop a new multifamily project at 121-125 Lake Street. As of now, the site is currently an empty, contaminated lot surrounded by chain link fencing. The proposed project would clean up the site under the NYS Brownfield Cleanup Program, and create a five story (four story, plus basement), multi-family residential building containing 77 units, including studios, 1-bedroom, and 2-bedroom market-rate apartments with associated interior and exterior amenities.

The site design will contain outdoor plazas and gathering spaces, a public walk leading to an Ithaca Falls viewing area, and a surface parking lot. The site is currently in the NYS DEC-governed Brownfield Cleanup Program to remediate the soils that were disturbed by the Ithaca Gun Company factory and its operations. A summary of this cleanup effort and procedure can be found at [https://www.visumdevelopment.com/breeze/brownfield-cleanup-program](https://www.visumdevelopment.com/breeze/brownfield-cleanup-program) and other Breeze-related pages on the Visum website.

The project will require two area variances.

The first is for the rear yard setback. The rear yard faces North, to the City of Ithaca owned public parcel. The setback required is 50’. The property line angles away from the building, leaving a 26’ setback at the narrowest portion, and a 46’ setback at the widest section. This results in a 24’ or 48% deviation from the zoning. Because the neighboring property is a publicly owned open space parcel, the project team feels that this area variance is a reasonable request.
The second variance required is for the overall building height in feet and number of stories. The zoning code allows a four-story building and a maximum building height of 40’.

Given the modern construction technologies associated with market rate apartments, a 40’ tall building in four stories is not realistic. When the design combines a normal finished ceiling height inside the apartments, with the necessary floor framing system to conceal mechanical systems and carry the weight above, a 10’ floor-to-floor measurement is not achievable. Lowering the building would cut into the living spaces and lessen the quality of life inside the apartments. A more typical floor to floor height is 11’ resulting in a 44’ tall building.

The height requirements are further compounded by significant topography and grade change on the site. The design team did their best to site the building to keep the overall building height and form minimized. For a majority of its perimeter, the building will present itself as a four story, 44’ tall building. This includes the primary front facade of the building, which is the South Elevation on Lake Street, and the East elevation where the at grade surface parking lot is. At the North-West corner of the site, the existing topography drops off significantly which exposes the parking garage and forces the basement parking garage to be counted as a fifth story and creates the maximum building height of 55’. This five story, 55’ section of the building only exists for a small portion of the building perimeter (~15%) but is the basis for the variance of 5 stories, and 55’. While it doesn’t change the variance, the design team has also attempted to minimize the impact at this corner by placing the 4th floor roof terrace at this area. This is a framed open air terrace which helps to minimize the impact of the overall massing at this corner.

Since the two factors contributing to the height variance are the realistic construction technologies and the existing topography and grade of the site, the project team feels that this area variance is also an appropriate request and of minimal impact.

Sincerely,

Erik S. Reynolds, CDT
Associate | Project Architect

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387 East Main Street, Suite 500, Rochester, NY, 14604
T 585.232.8300 | D 585.784.3943 | swbr.com | Facebook | LinkedIn | Twitter

50 YEARS | PEOPLE + DESIGN

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ZONING APPEAL CERTIFICATION OF MAILING

RE: City of Ithaca Board of Zoning Appeals  Zoning Appeal # 3234

I, Erik Reynolds, affirm all property owners within two hundred (200) feet of the boundaries of the lot(s) under consideration have been mailed a copy of the enclosed notice on or before 1/16/2023. I affirm the notice was mailed to the property owners at the addresses shown on the attached list of owners, by depositing the copy in a post-paid properly addressed envelope, in a post office or an official depository under the exclusive care and custody of the United States Post Office. I further affirm the names and addresses of the property owners are the same as the most recent assessment roll.

(Appellant’s Signature)

PLEASE SUBMIT THIS FORM TO:
City of Ithaca Zoning Division  Phone: (607) 274-6550
108 E. Green St., 3rd Fl.  Fax: (607) 274-6558
Ithaca, NY 14850
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The Breeze Apartments

Planning Board Meeting
11/22/2022

121-125 Lake Street
Ithaca, NY14850

Project Number # 21208.00
City of Ithaca, NY - 750 Foot Buffer for Parcel - Final Tax Roll

Data contained on this map was provided or derived from data developed or compiled by the City of Ithaca, and is the best available to date. The originators do not warrant the accuracy or completeness of the information portrayed by the data.
Appeal of property owner Rick Page for a modification to a previously granted use variance for §325-8, Column 1 – Permitted Primary Use requirement of the Zoning Ordinance. The property at 311 E. Lincoln Street has multiple commercial spaces, including a hair salon, a professional office, and a restaurant. The property is located in the R-2b district, in which commercial uses are not permitted, but all of the nonconforming uses onsite have been permitted by either use variance or special permit. The Lincoln Street Diner, located at 309 E. Lincoln Street, operates under a use variance for a restaurant use that was granted in August 1963. This variance was conditioned on (1) the restaurant closing at 8 p.m. and (2) the restaurant being closed on Sundays. The applicant now seeks a modification of this condition to allow the restaurant to operate seven days a week.
BOARD OF ZONING APPEALS (BZA) APPLICATION

1. TYPE OF APPEAL:
   - [ ] AREA VARIANCE
   - [ ] SPECIAL PERMIT
   - [X] USE VARIANCE
   - [ ] SIGN VARIANCE
   - [ ] ACTION, DECISION, OR INTERPRETATION OF ZONING OFFICER (OR OTHER CITY OFFICIAL)

   APPEAL #: 3247 (FILLED IN BY STAFF)
   HEARING DATE: 2-7-23
   BUILDING PERMIT #: NA (REQUIRED)
   RECEIPT #: 69508 (FILLED IN BY STAFF)

2. Property Address: 309 East Lincoln St. Use District: R-2b
   Owner’s Name: Rick Page
   Owner’s Address: 400 Old Orchard Rd
   City: Lending, NY 14862
   State: Zip: ____________

3. Appellant’s Name: Same as above
   Appellant’s Address:
   City: State: Zip:
   Telephone: 607-227-2225
   E-Mail: RichardWPageJr@gmail.com

4. Attach Reason for Appeal (see “Zoning Appeal Procedure Form”)

5. Appellant Certification: I certify the information submitted with the appeal is true to the best of my knowledge/belief; and I have read and am familiar with City of Ithaca Zoning Ordinance sections that apply to this appeal (incl. Section 325-40, describing the powers and duties of the Board of Zoning Appeals). I also acknowledge the Board of Zoning Appeals may visit the property and I specifically permit such visits.

   [ ] I have met/discussed this application with Zoning Division staff prior to submission.

   ____________________________
   Appellant Signature

   STATE OF NEW YORK
   COUNTY OF TOMPKINS
   Notary Public available at City Hall.

   Sworn to this ______ day of ____________________, 20___

   ____________________________
   Notary Public

   IMPORTANT: INCOMPLETE applications will be returned to the applicant and the applicant will have to reapply.

   If ANOTHER CITY APPROVAL is required (e.g., Site Plan Review, Subdivision Review, Ithaca Landmarks Preservation Commission Review), this application will likely not be considered at the next scheduled BZA meeting date.

   If an application is submitted and subsequent CHANGES are made to the proposal/project, a revised application will be required. The original application will not be considered a placeholder for the original BZA hearing date. Zoning Division staff will also not remove contents from earlier applications to complete a revised application. Applicants are responsible for ensuring all information necessary for processing a Zoning Appeal is submitted by the application deadline for a given BZA hearing date.
1. Ordinance Section(s) for the Appeal:

<table>
<thead>
<tr>
<th>Zoning Ordinance Section Being Appealed</th>
<th>Sign Ordinance Section Being Appealed</th>
</tr>
</thead>
<tbody>
<tr>
<td>§325- 8, Column 1 (Condition of BZA#581)</td>
<td>§272-</td>
</tr>
<tr>
<td>§325-</td>
<td>§272-</td>
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<td>§325-</td>
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<td>§325-</td>
<td>§272-</td>
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<tr>
<td>§325-</td>
<td>§272-</td>
</tr>
</tbody>
</table>

2. Application of SEQR determination: [ ] Type 1 [ ] Type 2 [ ] Unlisted

3. Environmental Assessment form used:
   [x] Short Environmental Assessment Form (SEAF)
   [ ] Full Environmental Assessment Form (FEAF)
   [ ] Completed by Planning Division at preliminary hearing for Site Plan Review
   [ ] Not Applicable (Type 2 Action)

4. A previous appeal [x] has / [ ] has not been made for this proposal:
   - Appeal No. 2572, dated 3/4/03
   - Appeal No. _______ , dated _________
   - Appeal No. _______ , dated _________

5. Notes or Special Conditions:
   - A use variance for the restaurant use was originally granted on August 26, 1963, with the condition that the restaurant not operate on Sundays or after 8 pm.
   - A previous property owner applied to remove the condition and that appeal was denied on March 4, 2003. The 2003 denial was subsequently upheld in an Article 78 court proceeding.
**Short Environmental Assessment Form**

**Part 1 - Project Information**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<table>
<thead>
<tr>
<th>Name of Action or Project:</th>
<th>Lincoln Street Diner Use Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Location (describe, and attach a location map):</td>
<td>309 East Lincoln Street, Ithaca, NY 14850</td>
</tr>
<tr>
<td>Brief Description of Proposed Action:</td>
<td>Remove condition on hours/days of operation of previous use variance</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Applicant or Sponsor:</th>
<th>Rick Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>460 Orchard Road</td>
</tr>
<tr>
<td>City/PO:</td>
<td>Lansing</td>
</tr>
</tbody>
</table>

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?
   - NO [ ] YES [ ]
   - If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.

2. Does the proposed action require a permit, approval or funding from any other governmental agency?
   - NO [ ] YES [ ]
   - If Yes, list agency(s) name and permit or approval:

3.a. Total acreage of the site of the proposed action? _______ acres  
3.b. Total acreage to be physically disturbed? _______ acres  
3.c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _______ acres  

4. Check all land uses that occur on, adjoining and near the proposed action.  
   - [ ] Urban  
   - [ ] Rural (non-agriculture)  
   - [ ] Industrial  
   - [ ] Commercial  
   - [ ] Residential (suburban)  
   - [ ] Forest  
   - [ ] Agriculture  
   - [ ] Aquatic  
   - [ ] Other (specify): ____________________________  
   - [ ] Parkland

Page 1 of 3
5. Is the proposed action,
   a. A permitted use under the zoning regulations?  
      □ NO  □ YES  □ N/A
      □ NO  □ YES  □ N/A
   b. Consistent with the adopted comprehensive plan?  

6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?  
   □ NO  □ YES  □ N/A

7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?  
   If Yes, identify: __________________________
   □ NO  □ YES

8. a. Will the proposed action result in a substantial increase in traffic above present levels?  
      □ NO  □ YES
   b. Are public transportation service(s) available at or near the site of the proposed action?  
      □ NO  □ YES
   c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?  
      □ NO  □ YES

9. Does the proposed action meet or exceed the state energy code requirements?  
   If the proposed action will exceed requirements, describe design features and technologies:  
   □ NO  □ YES

10. Will the proposed action connect to an existing public/private water supply?  
    If No, describe method for providing potable water: __________________________
    □ NO  □ YES

11. Will the proposed action connect to existing wastewater utilities?  
    If No, describe method for providing wastewater treatment: __________________________
    □ NO  □ YES

12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?  
      □ NO  □ YES  □ N/A
   b. Is the proposed action located in an archaeological sensitive area?  
      □ NO  □ YES

13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  
      □ NO  □ YES
   b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?  
      If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: __________________________
      □ NO  □ YES

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:  
   □ Shoreline  □ Forest  □ Agricultural/grasslands  □ Early mid-successional
   □ Wetland  □ Urban  □ Suburban

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?  
    □ NO  □ YES

16. Is the project site located in the 100 year flood plain?  
    □ NO  □ YES

17. Will the proposed action create storm water discharge, either from point or non-point sources?  
    If Yes,  
    a. Will storm water discharges flow to adjacent properties?  
       □ NO  □ YES
   b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?  
      □ NO  □ YES
    If Yes, briefly describe: __________________________
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?
   If Yes, explain purpose and size: ________________________________
   [NO] [YES]  

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?
   If Yes, describe: ________________________________
   [NO] [YES]  

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?
   If Yes, describe: ________________________________
   [NO] [YES]  

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: ___________________________  Date: 12-20-22
Signature: ___________________________
Short Environmental Assessment Form  
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency. 
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

<table>
<thead>
<tr>
<th>Question</th>
<th>No, or small impact may occur</th>
<th>Moderate to large impact may occur</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>2. Will the proposed action result in a change in the use or intensity of use of land?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>3. Will the proposed action impair the character or quality of the existing community?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>7. Will the proposed action impact existing:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. public / private water supplies?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>b. public / private wastewater treatment utilities?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>11. Will the proposed action create a hazard to environmental resources or human health?</td>
<td>✔</td>
<td></td>
</tr>
</tbody>
</table>
Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Part 3 Not Applicable for BZA 3247

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☑ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

City of Ithaca Board of Zoning Appeals

Name of Lead Agency

David Barken

Date

2/7/2023

Chair

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

Megan Wilson

PRINT FORM
NOTICE OF APPEAL
REGARDING ZONING OR SIGN ORDINANCE
CITY OF ITHACA, NEW YORK

APPEAL NO. 3247

TO: Owners of Property within 200 feet of 309 East Lincoln Street and others interested.

FROM: Rick Pace applicable to property named above, in R-2b zone.

REGARDING: (check appropriate box) 

☐ Area Variance ☑ Use Variance ☐ Sign Variance

City regulations require you be notified of this appeal to the Board of Zoning Appeals (BZA), as described in the attached letter and provide the opportunity for you to comment on it and/or attend the meetings listed below. Anyone considered an interested party may speak for or against the appeal at the meetings listed below, or submit a written statement to the BZA before its designated meeting. There is a time limit of three (3) minutes for each interested party to address the BZA during the Public Hearing portion of the meeting.

The Board of Zoning Appeals bases its decision primarily on the written evidence submitted and presented to it, the testimony of interested parties, and zoning and legal considerations. The written case record will be available for review on the City’s website (http://www.cityofithaca.org/368/Board-of-Zoning-Appeals) under “Most Recent Agenda,” beginning one week before the scheduled BZA meeting. This case has also been referred to the City’s Planning and Development Board that will advise the BZA, if granting the relief sought by the appellant will affect long-term planning objectives. The date of the Planning Board’s meeting regarding this appeal is also listed below.

The Planning Board will consider this case on Jan 24th at 6:00 P.M. via the online platform Zoom. A live stream is available at https://www.youtube.com/channel/UC7RtLN1P_RFqW2IVChTrDg. To provide comments to the Planning Board on this appeal, please submit written comments to Anya Harris at aharris@cityofithaca.org, and your comments will be forwarded to the Board members for their review.

The Board of Zoning Appeals will consider this case on Feb 7th at 6:00 P.M. via the online platform Zoom. There will be a public hearing on this appeal, and there are two options to participate in the public hearing:

1. Submit comments by email no later than 4 p.m. on the day of the meeting to zoningdivision@cityofithaca.org and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing. You must provide your name and address.

2. To speak at the meeting, sign up and receive instructions by contacting zoningdivision@cityofithaca.org or Anya Harris at (607) 274-6550 or aharris@cityofithaca.org. You must provide your name and address.

Signature of Appellant: [Signature] 
Address: [Address] 
Date: [Date]
January 17th, 2023

Neighbors & Residents adjacent to:
309-311 E. Lincoln Street (Lincoln Street diner)
Ithaca, NY 14850

Dear Neighbors and Residents:

We recently purchased the property at 309-311 E. Lincoln Street. The property includes the Lincoln Street Diner, Stay & Play office, and the Hair Salon. We have done some significant interior re-modeling to the salon and to the diner. We plan on continuing to upgrade and remodel the property with tasteful and necessary updates.

The Diner operates under a use variance that allows the restaurant to operate on the property within a residential zone. As part of this approval, the Diner’s hours of operation were limited to Monday-Saturday, 5:00AM–8:00PM. We are writing you to inform you that we are proposing that the diner be allowed to be open on Sunday thru Saturday from 5:00AM-8:00PM. Currently the Diner has not traditionally been open on Sundays. We don’t expect this to change how the diner operates other than allowing it to be open during the proposed change. There will be no change to the exterior of the building. The City of Ithaca Board of Zoning Appeals department requires that we notify residents of the requested change.

Please feel free to contact me with questions and concerns. You can reach Rick’s mobile phone 607-227-2228 or via email richardwpagejr@gmail.com.

Sincerely,

Rick Page, Zack Page, and Jeff Musselman
ZONING APPEAL CERTIFICATION OF MAILING

RE: City of Ithaca Board of Zoning Appeals

I, ____________________________, affirm all property owners within two hundred (200) feet of the boundaries of the lot(s) under consideration have been mailed a copy of the enclosed notice on or before 1-17-23. I affirm the notice was mailed to the property owners at the addresses shown on the attached list of owners, by depositing the copy in a post-paid properly addressed envelope, in a post office or an official depository under the exclusive care and custody of the United States Post Office. I further affirm the names and addresses of the property owners are the same as the most recent assessment roll.

(Appellant’s Signature)

PLEASE SUBMIT THIS FORM TO:
City of Ithaca Zoning Division
108 E. Green St., 3rd Fl.
Ithaca, NY 14850

Phone: (607) 274-6550
Fax: (607) 274-6558
<table>
<thead>
<tr>
<th>500700 14.-2-13</th>
<th>500700 14.-3-2</th>
<th>500700 14.-3-3</th>
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</thead>
<tbody>
<tr>
<td>Stephan Phillips</td>
<td>Heritage Park Townhouses, Inc</td>
<td>Constance Fairbanks</td>
</tr>
<tr>
<td>Susan Phillips</td>
<td>680 Ridge Rd</td>
<td>1018 N Tioga St</td>
</tr>
<tr>
<td>212 E Lincoln St</td>
<td>Lansing NY 14882</td>
<td>Ithaca NY 14850</td>
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<td>500700 14.-3-4</td>
<td>500700 14.-3-5</td>
<td>500700 14.-3-6</td>
</tr>
<tr>
<td>Richard L. Canfield</td>
<td>Eileen Yagoda</td>
<td>Therese Arango</td>
</tr>
<tr>
<td>Cindy Hazan</td>
<td>Ross Brann</td>
<td>1311 Coddington Rd</td>
</tr>
<tr>
<td>1016 N Tioga St</td>
<td>1012 N Tioga St</td>
<td>Brooktondale NY 14817</td>
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<tr>
<td>Ithaca NY 14850</td>
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<td>David Sprague</td>
<td>Heritage Park Townhouses, Inc</td>
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<td>500700 28.-1-4</td>
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<tr>
<td>Robbie Sanders</td>
<td></td>
<td></td>
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<tr>
<td>920 N Aurora St</td>
<td></td>
<td></td>
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<tr>
<td>Ithaca NY 14850</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TITLE: SURVEY MAP NO. 309-313 EAST LINCOLN STREET

CITY OF ITHACA, TOMPKINS COUNTY, NEW YORK

DATE: 4/26/2021

SCALE: 1"=20'

T. G. MILLER P.C.
ENGINEERS AND SURVEYORS
605 WEST STATE STREET, SUITE A
ITHACA, NEW YORK 14850
TEL.: (607) 272-8477
Financial Analysis: The impact to Chris / Diner would bring in $1600-1800 of revenue for Sundays. It will also allow him to take slow weekdays off when typically he still needs the amount of staff that generates far less revenue. Weekdays for the diner create far less net revenue compared to a Saturday. Chris is financially near the breakeven point and trying to hold on to his labor at growing salary expectations.
BOARD OF ZONING APPEALS  *  *  Case #581

Present:  Appellant:  Objectors:
Chairman Conley  For the Appellant  None
Geberin  Mr. Scaglione
Luccarelli  Attorney Abbott
Jones

Mr. Abbott presented the case for Mr. Scaglione and displayed a petition signed by twenty-two (22) property owners in the area adjacent to the property. The petitioners said they had no objections to the granting of a variance, that the business was well conducted, and that it was not open after eight o'clock in the evening and therefore presented no traffic problems at all.

Attorney Abbott presented facts and figures to show that a hardship did exist in view of the fact that the restaurant had been established there for some time and that being unable to expand the business would make it economically impossible for Mr. Scaglione to continue.

After several questions by Board members as to the intent of Mr. Scaglione concerning parking and the possibility that he might acquire some parking space adjacent to this property, his affirmative replies brought an end to the discussion and the Board retired into executive session.

EXECUTIVE SESSION:

A review of the plot plan as presented by Attorney Abbott was discussed and, as indicated on the plan, the extension of the building would bring it in line with two extensions already there and the wall would be of masonry construction and would be five (5) feet from the lot line. This seemed to be acceptable to the Board and Mr. Jones moved that the variance be granted. This was seconded by Mr. Luccarelli and the vote was unanimously yes.

Variance granted.
1) Undersigned operates a restaurant in portion of dwelling as indicated on attached drawing, supplying a need in that area of the city. As it exists, restaurant area is inadequate. Nature of building would allow for expansion only in a westerly direction until west property line is reached. Then expansion to south is possible, but must be tied in with westerly expansion.

2) Such extension would in no way encroach upon anyone else's property, would not cut off anyone else's view and would improve the appearance of the property in question. Strict application of this ordinance would deprive undersigned of reasonable use of such land and building.

3) Addition will not be injurious to the neighborhood or otherwise detrimental to public welfare.

4) Undersigned do not open said restaurant after 8:00 P.M. nor on Sundays, thereby not interfering with residences in that area.

5) Restaurant is now at crossroads. An addition is imperative or the restaurant will in all probability and of necessity close. Undersigned can no longer, for health reasons, continue to operate same without additional help and restaurant presently is of such size that this cannot be accomplished without the addition requested for reasons that:

   a. There is not enough room, and

   b. Economics would not allow additional help without additional space for handling business potential.
6) Restaurant is supplying a need for area residents, working people and Fall Creek and Ithaca High School students and staff.

7) Outside construction will be same as appears on present restaurant portion of building, thus making an attractive looking structure.

8) Improvements will be costly and will no doubt add to taxable income of the City of Ithaca.

9) Extensions "A," "B" and "C" are preferred. If refused, "A" and "B" are second choices, and "A" alone is last choice.

10) If restaurant has to close as set forth in 5) above, undersigned will face extreme and unnecessary hardship as considerable monies will have to be spent to change property to residential use only. This is to say nothing of monies already spent to make part of same a restaurant, all of which will also be wasted if this variance is not granted.

11) Granting said variance would still maintain the immediate area in such a condition that the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

12) Enlarged restaurant will be operated in same orderly manner that present restaurant is operated. No complaints have ever been received from residents in that area and nothing will be knowingly done which will cause any such complaints to arise.
March 26, 2003

James Zifchock
1111 N. Aurora St.
Ithaca, NY 14850

RE: Board of Zoning Appeals meeting of March 4, 2003
Appeal Number 2572

Dear Mr. Zifchock:

The Board of Zoning Appeals considered your request for a use variance from the Zoning Ordinance to increase the hours of operation for the restaurant at 309 East Lincoln Street to include Sundays from 7:30 a.m. to 3:00 p.m. The decision of the Board was as follows:

Resolved, that the Board of Zoning Appeals deny the area variance requested in Appeal Number 2572 for the property at 309 East Lincoln Street, with the following findings of fact:

1. A hearing was held and arguments were made both in favor of granting the appeal and in opposition.

2. The city Board of Planning & Development had no objection to the granting of the appeal.

3. The Board was particularly persuaded both by the arguments set forth by the appellant and supporters, including a councilman representing the ward where the property is located, and also by arguments put forth by several property owners, especially immediately adjacent or in very close proximity to the property of the appellant.

4. The property is zoned R-2a and exists as a restaurant only by virtue of a use variance that had been granted some years ago, and which restricted the hours at that time to six days per week, Monday through Saturday, not to engage in business before 6:00 a.m. or after 8:00 p.m.

5. The appellant asks for permission to engage in business on the 7th day of the week, on Sunday, and the Board moves to deny this appeal thus preserving the six day per week operation of the business.

"An Equal Opportunity Employer with a commitment to workforce diversification."
James Zifchock
1111 N. Aurora St.
Ithaca, NY 14850

March 26, 2003

RE: Board of Zoning Appeals meeting of March 4, 2003
Appeal Number 2572

Vote: 4 yes votes; 1 no vote; Appeal denied.

Sincerely,

[Signature]

Phyllis Radke, Secretary
Board of Zoning Appeals

PR/kb

NOTE: The date of this letter is the date of filing for the purposes of appeal of this decision. There is a statute of limitations on the filing of an Article 78 appeal of thirty (30) days from the filing of this decision.