

DECISION

IN THE MATTER OF PRIME COMMERCIAL MANAGEMENT, LLC application to the Ballston Town Board to consider a variance, pursuant to Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, as requested by the applicant, Prime Commercial Management, LLC for property located at Jenkins Road and Scotchbush Road, Ballston Spa, New York 12020

The Applicant, Prime Commercial Management, LLC filed an application with the Town Clerk for the Town of Ballston on or about November 19, 2020 requesting the Ballston Town Board consider a variance, pursuant to Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, for property located at Jenkins Road and Scotchbush Road, Ballston Spa, New York 12020.

On January 12, 2021, the Town of Ballston Town Board by Resolution #21-32 scheduled a public hearing for January 26, 2021 at 6:15 pm. The Town Clerk provided at least five days' notice of the hearing date pursuant to the provisions of Local Law #5.

On January 26, 2021, the Town of Ballston Town Board held a public hearing starting at 6:15 pm via zoom conferencing platform only.

The Applicant appeared through two members, Todd Curley, and Ken Raymond. Each addressed the Board and answered questions from Town Board members. The Applicant referred the Town Board to its Application for a Variance which the Town Board accepts as part of the Public Hearing. Two members of the public also spoke at the public hearing and offered comments to the Board. At the conclusion of the hearing on January 26, 2021, Councilwoman Stewart along with Councilman Curtiss requested that the Public Hearing remain open until Friday, January 29, 2021 at 4 pm for more information to be accepted and/or written comments be received by the Town Clerk. The Town Clerk did not receive any written comments by January 29, 2021 at 4 pm. It will be noted that on February 10, 2021 a letter was received by the Town Clerk, but that letter was not considered since the Public Hearing had closed.

The Town Board finds undisputed the following facts:

The Applicant has a contract to purchase property at the corner of Jenkins Road and Scotchbush Road from the Burnt Hills Ballston Lake School District.

The Town Board was not provided the purchase price amount.

The purchase is contingent on government approvals.

The purchase and potential development of this property have been in discussions since 2018.

The Town of Ballston changed its zoning affecting this property in December, 2019 allowing for more density.

At no time did the Town stop accepting applications to its Building Department or its Planning Board from December, 2020 through the present despite many Covid/Emergency restrictions.

The Applicant submitted its application for Planning Board approval to the Town's Building Department for development of this property on September 8, 2020.

The Applicant indicated its business and future was affected by Covid uncertainties.

The Applicant indicated it chose to wait to apply for government approvals from 2018 through September 8, 2020.

The Applicant knew of discussions for possible moratorium in Town of Ballston in early 2020.

The Applicant knew of possible zoning changes for 2020.

The Applicant submitted no evidence of financial hardship specific to this application.

The Applicant provided no evidence that it expended anything out of the ordinary regarding this application.

The Applicant changed consultants during Covid shutdowns.

The Applicant did not provide any names of Town of Ballston representatives that "discouraged" them from making an application to the Planning Board.

The Applicant decided from 2018 to September 8, 2020 not to apply to the Planning Board .

Burnt Hills Ballston Lake School District did not submit comments to this Board as part of the Public Hearing.

September 8, 2020 is the date the Town Board voted to approve a moratorium which affected many applications to the Town dating back to July 17,2020. This Board had been discussing imposition of a moratorium since February, 2020. This Board scheduled a 2nd Public Hearing on the proposed Moratorium Statute on September 3, 2020. The Town Board Agenda for the September 8, 2020 was published on the Town web site on September 4, 2020. This agenda indicated that a Moratorium statute would be considered at the September 8th Town Board Meeting.

Based upon the criteria set forth in Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, the Town Board finds the following:

1. A strict interpretation of Local Law #5, the Moratorium **does not** impose practical difficulties upon the Applicant since it was able to submit its Application to the Planning Board at any time from 2018 and chose to wait in excess of two (2) years;
2. Nor has the Applicant demonstrated any facts showing **extraordinary** hardship under the statute. Any hardships characterized by the Applicant were self-imposed decisions.

Since the Town Board has determined the Applicant has not met the criteria of granting a Variance from Local Law #5 of 2020, it does not have to consider any additional factors but also finds that granting this Application would **significantly conflict** with the general purposes and intent of this Local Law.

This Board notes that this decision is fact and case specific to Prime Commercial Management, LLC.

Variance denied pursuant to Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston.

Dated: February 23, 2021

By: The Town of Ballston Town Board

Roll call vote:

Councilperson Antoski
Councilperson Curtiss
Councilperson Jasinski
Councilperson Stewart
Supervisor Connolly

Abstained
Yes
Yes
Yes
Yes

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