S T A T E O F N E W Y O R K
COUNTY OF JEFFERSON

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ZONING BOARD OF APPEALS

PUBLIC HEARING

#566

Area Variance to reduce the setback in a Planned Development District.

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ZONING BOARD OF APPEALS

PUBLIC HEARING

#567

Use Variance to allow a professional office in a Residence A District.

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245 Washington Street
Watertown, New York 13601
Wednesday, February 17, 2021

B E F O R E:

Board Members: Samuel S Thomas, Chairperson
Patrick Hickey
Allison Crossman
Benjamin Grass
Christin Filippelli

City Planners: Geoffrey T. Urda

Michael J. DeMarco

City Attorney: Christina Stone, Esq.

REPORTED BY: Tiffany-Jo Ponce, Court Reporter

CHAIRMAN THOMAS: So we are going to begin the Zoning Board of Appeals meeting this evening. I'd like to have everyone know, Tiffany Ponce is standing in as court reporter for Ms. Burnham. So I would ask everyone to make sure one person speaks at a time. There should be a brief pause before the next person decides to make a statement so that she can accurately reflect the minutes.

Mr. Urda, is it okay if we pull our mask down to speak?

MR. URDA: Absolutely. I just wanted to say, everybody, please use your microphone so that will be -- that will make it easier for Tiffany and for the folks at home.

CHAIRMAN THOMAS: Thank you. So we'll begin. I'd like to call the Zoning Board of Appeals meeting to order at 7:03 p.m. We'll begin with roll call.

Allison Crossman?

MS. CROSSMAN: Present.

CHAIRMAN THOMAS: Christin Filippelli?

MS. FILIPPELLI: Present.

CHAIRMAN THOMAS: Patrick Hickey?

MR. HICKEY: Present.

CHAIRMAN THOMAS: Benjamin Grass?

MR. GRASS: Present.

CHAIRMAN THOMAS: I, Samuel Thomas, Chairperson, is present. And let the record show that Mr. Geoffrey Urda, City Planner, is present.

Mr. Michael DeMarco, City Planner, is present, and Christina Stone representing -- our City Attorney is also here.

I'd like to take a moment to read the notice of the public hearing request for variance of the zoning ordinance of the City of Watertown. Please bear with me. Notice is hereby given that the Zoning Board of Appeals of the City of Watertown, New York, will meet on Wednesday, February 17th, 2021, at 7:00 p.m. in the City Council Chambers on the third floor of City Hall for the purpose of hearing two variance requests.

Variance Request Number 566 is for

the property located at 1290 Arsenal Street, being Parcel Number 8-53-108.100, submitted by Chick-fil-A, Incorporated to vary the regulations of Section 310-12 Zoning Ordinance, pertaining to setback requirements in a Planned Development District.

Variance Request Number 567 is for the property located at 128 Ten Eyck Street, being Parcel Number 10-15-102.000, submitted by Dr. Walter Zabriskie, to allow an office use in Residence A District.

All those interested may appear and be heard on the subject. This will be a hybrid in-person/virtual meeting with the option to participate remotely using the online teleconferencing platform, GoToMeeting, or attend at City Hall. If you wish to attend virtually, please contact the Planning Department prior to the meeting at (315)785-7741 or planning@watertown-ny.gov no later than 4 p.m. on Tuesday, February 26th -- February 16th, 2021. The city staff will

e-mail a personalized invitation and instructions in advance of the meeting that will allow access to the virtual meeting room. If you wish to attend in person, please note that all visitors to City Hall will need to sign in upon arrival and wear a mask at all times while in the building. Copies of the request are available for public inspection and copying by contacting the planning department at the phone number or e-mail above.

In addition, the public may submit comments prior to hearing -- prior to the hearing by US mail to the City of Watertown Planning and Community Development Department, 245 Washington Street, Room 305 or by e-mail to planning@watertown-ny.gov, and any comments received will be appended to the Hearing Record. This is dated February 9th, 2021, submitted by Geoffrey Urda, planner. Thank you.

First on the agenda is Number 566, area variance to reduce the setback in a

Planned Development District; location, 1290 Arsenal Street; applicant, Chick-fil-A.

I see you have materials and microphone up front. Please state your name for the record, address, and representation.

MR. OSTERHOUDT: Hi. My name is Rob Osterhoudt with Bohler Engineering. Can you hear me okay, or do I need to take the mask off?

CHAIRMAN THOMAS: I -- I have -- if you can just pull it down, it's just easier.

MR. OSTERHOUDT: Sure.

CHAIRMAN THOMAS: If you feel safe with that.

MR. OSTERHOUDT: No problem. I'm comfortable. Thank you. My name's Rob Osterhoudt with Bohler Engineering representing Chick-fil-A with their application for an area variance at 1290 Arsenal Street.

I have with me Paul Van Cott from Whiteman Osterman & Hanna, land use

attorney for Chick-fil-A. Typically, Chick-fil-A would be attending these meetings with us, but because of travel restrictions and the pandemic, they are not with us this evening, but they are here in spirit.

So with that, I'll start an introduction to the project. I do have some exhibits, so I'll step away from the microphone, if that's okay. I'll raise my voice if I need to so that you can hear me properly.

MR. URDA: Actually, we can give you a handheld microphone.

MR. OSTERHOUDT: Oh, okay. That'd be great.

MR. URDA: I think you'll have to turn it on, but ...

MR. OSTERHOUDT: Great. Thank you.

MR. DEMARCO: You're welcome.

MR. OSTERHOUDT: Okay. So I have here an aerial exhibit that depicts the project's site. To orient everybody, we've got Arsenal Street here, Interstate 81, and this is the on-ramp to

I-81 northbound from Arsenal Street. Over here, we've got Western Boulevard. This is the Speedway, the Starbucks, AT&T, and IHOP right here. The site that we're looking at is the former Ruby Tuesday's site. So this building that you see here on this aerial exhibit is the Ruby Tuesday's facility (indicating). So that's intended to orient you to the site.

The next exhibit that I have here is our rendered site plan. So the existing Ruby Tuesday facility will be demolished in its entirety. A new 5,000 square foot restaurant will be constructed here on the southern portion of the property. What we're doing is tying into the existing access driveway that runs down between Starbucks and the site. This is that common driveway here. Again, here's IHOP up on the north side of the page here, and the parking field around IHOP. Right now, this is all just an open sea of asphalt, for a lack of a better term (indicating).

What we're doing is trying to separate and provide some enhanced circulation around the site and the connectivity to the other sites by introducing some green space and curbed islands between parking fields and then adding some parking here for our site and then some curbed islands that separate our parking field from the shared access drive over here (indicating).

The Chick-fil-A operation is very critical of their drive-through. Their drive-through is a major important piece of their operation. They push a lot of people through the drive-through. They're very efficient with their drive-through operations. I've been to their headquarters in Atlanta. They actually have a mock drive-through setup in a warehouse, and they actually, like, do tests and implement new procedures and things like that based on all their testing.

So what you'll see on this plan is rather unique to a fast-food restaurant

or a quick-serve restaurant, and that uniqueness is the drive-through. This drive-through is two lanes. From the entrance, it starts out as a single lane and quickly transitions into two lanes on the west side of the building there. And then you approach your order point, which is right here (indicating).

This darker color that you see at this order point is actually a canopy that's over top of the two order point stations. The intent of that canopy is to protect the customers from the weather; keep them out of the sun, the rain, inclement weather. And then also, one thing that's unique to Chick-fil-A is that they'll actually have team members out here with iPads and take orders. If these order stations are not moving quickly, the team members are out there, and they're able to assist customers by answering questions that they may have. They can take payments right there.

So conventional drive-throughs, you know, you would stand here -- or park

here. You would place your order. Then you would circulate through to your pickup window and pay there. They're speeding that process along by actually having staff members, team members out here assisting customers, answering questions, taking payment, scanning their rewards, things like that. So as cars circulate past this order point, it's still two lanes, and that two-lane configuration wraps all the way around to the pickup window that's over on the east side the building.

You see another darker area here, which is another canopy, again, to protect the customers and the team members from the weather (indicating). So when you pull up to pick up your food at the window -- and I'll talk more about that in a moment -- you're actually greeted by a team member outside. They will hand deliver your food to you. So when things are peak-hour times, there could be, you know, two lanes of drive-through traffic coming through and

both lanes would be getting serviced and food served to them without them having to get out of their car. It's really a unique situation and they're very effective. They're very expeditious with getting you through the drive-through.

And I'll share a little experience just on my way here tonight. I stopped at Cicero, and it was probably 5:00 or so, so there was a lot of cars in the drive-through. And I pulled up and some people might look at that and say, "Geez. It's too much. It's going to be too slow." I was probably the 20th car in the drive-through stack, and I was through that line, out of there with my food within five minutes. That's how efficient they are. They really spend a lot of time on their drive-through and have some really great features to it. Such as, having the teammates out there taking orders and assisting, having these canopies, having the dual lane here that helps move the vehicles through (indicating).

What you'll see in the middle of those two lanes -- I don't know how well you can see it from a distance here, but it was in the plans that was submitted with our package. There's a striped area down the middle of the two lanes, and that's intended for those team members to be able to walk so that they're not just talking to the car that's at the window. They might walk back here and, you know, talk to these people back here or give these people their food or answer any questions that they may have (indicating). So they're constantly able to circulate through the two lanes of the drive-through.

There's also indoor seating and dining at this restaurant, in case you were wondering, and there's also outdoor seating, if we have the outdoor patio space. So the circulation on this is really key to the successful operation of the restaurant. We wanted to make sure that we were, you know, separating and clarifying the circulation patterns

around this site so that people weren't just cutting through the parking fields like they can today. So we channelized things.

The drive-through entrance is right over here, as I pointed out (indicating), so vehicles coming into the shopping center can access. This is the AT&T building here. There's a four-way intersection right here. So cars can either take a left and come down, enter the drive-through here, or they can wrap around the north side of IHOP and come around the backside -- or west side of IHOP and enter the drive-through over here (indicating).

So these canopies have -- this one's attached to the building. This one is a free-standing canopy. Because we're in the PDD, PDD Number 23, there's an underlying 50-foot setback requirement for the front yards, and we're at 31.8 feet to this canopy. So we're looking for relief for that setback.

An important point to note is that

the commercial zoning district that the other parcels are around us are within, they have a 20-foot setback requirement versus our 50 feet. So, you know, if this were not a PDD, we would probably be subject to that same 20-foot and not need a variance. But because of the 50-foot, we are requesting this variance here.

There are some other structures that exist in this front yard. That would be right in this area is an existing billboard that's on the property (indicating). That billboard is probably around 25 feet or so to the main support of that billboard to the property line. And then down here in the corner, the southwest corner of our site, is the main pylon sign for the shopping center, and that one is literally feet from the property line. So with our 31.8-foot setback to our order point canopy here (indicating), we've got, you know, a lot more room than what those existing sign structures provide to that property line.

Some of the neat benefits that we're

able to incorporate into this project versus what's out there today, there's a lot more green space on this property. We're able to reduce the pavement area, the impervious area on this site by about 10,000 square feet, which is a very large percentage of the property here. You know, to put that in perspective, it's about two of our building footprints of additional green space that we're able to get on this site versus what's out there today.

So with that, you know, the circulation is very important for the operation. We want to make sure that we're keeping the parking field as separate as we can from the drive-through. That's why we've got this drive-through access over here. The drive-through circulation comes around the building. The orders are picked up here (indicating).

I mentioned that the drive-through window is here (indicating). One of the new things that Chick-fil-A is doing,

they're doing away with the drive-through window, so now that is a door. So when you pull up, there's a hatched area along the building that is reserved for the team members to be able to take food from the door, which does have, like, a window element to it. They can take the orders, turn around, and hand it to the car that's right there behind them, or they can walk across the crosswalk to the vehicle that's on the outer lane of the drive-through. So that's new. That's a new feature. I don't know of any other quick-serve restaurants, at least in our area, that have that feature. So that's a new and innovative thing, another thing that they were testing at their headquarters.

So once the vehicles do get -- pick up their orders here, they drive out, hit the drive aisle through the parking field here and out through the shared access drive and they can exit the side from there.

So that's an overview of the -- of

the site and the layout. With that, what I'd like to do, I can answer any questions you may have right now, or I can pass the baton to my colleague, Paul, and let him run through the variance request in a little more detail.

CHAIRMAN THOMAS: You're going to be demolishing the Ruby Tuesday, according to the application. Is this -- you're demolishing --

MR. URDA: You have to turn it on, Sam.

CHAIRMAN THOMAS: Oh, it's not on. Now it's on. It was off. You're -- it's my understanding you're demolishing that Ruby Tuesday's building. Perhaps, it's entertained in the application, but is your building smaller or larger?

MR. OSTERHOUDT: It's approximately the same size. I've seen some different numbers on the square footage for the Ruby Tuesday, but we're in the same ballpark.

CHAIRMAN THOMAS: If one -- all orders will be taken via the canopy

drive-through piece if -- because I did hear you say that there's seating inside.

MR. OSTERHOUDT: Correct.

CHAIRMAN THOMAS: Would orders be taken inside, or is everything done on the outside?

MR. OSTERHOUDT: Nope. If you wanted to go in and sit down, you could certainly -- like many other quick-serve restaurants, you can go in to the counter, place you order. What Chick-fil-A does -- again, it's a customer service thing. They're very customer eccentric. What they'll do is they'll take your order. You pay inside. Then you go grab a seat. They give you a tray. They give you, you know, your drinks, things like that. You can go sit down. They'll actually bring your order to you at your table. So -- but yes, you have dine-in options, and you can order inside as well.

CHAIRMAN THOMAS: And regarding the setback, which I believe you're looking at 31.8 square feet.

MR. OSTERHOUDT: Yes.

CHAIRMAN THOMAS: And you're required 50. Where particularly -- I was looking at the blueprints and so forth. And if you could, designate on that map where that setback is.

MR. OSTERHOUDT: Absolutely. So right here, this -- this darker rectangle that you see is that order-point canopy (indicating).

CHAIRMAN THOMAS: Okay.

MR. OSTERHOUDT: This bold line on the edge of the green is our property line, so the setback that we're talking about is from that line to this line, 31.8 feet (indicating). And just to kind of -- in case anybody was out looking at the site, just to put it in perspective, the billboard is right here, which is about the entrance to our drive-through. The large existing pylon sign is down here in the corner (indicating). That's this gray barbell shape that you're probably seeing. And then this little beige box that you see right here is an

existing electrical transformer that is actually in the parking lot. So the edge of the parking today is, like, right here. So this is one of the -- the principle areas where we're able to pick up a lot of green space and get rid of that pavement area. So we are moving the pavement further away from that property line as well (indicating).

CHAIRMAN THOMAS: And that's on the west side?

MR. OSTERHOUDT: Correct. Yep. North is up the page.

CHAIRMAN THOMAS: Yep.

MR. OSTERHOUDT: And one thing that I did not mention, but I'll bring it up now, so Arsenal Street and the ramp to northbound I-81 are substantially higher in elevation than our site. So this site, you know, sits down in a hole. We're probably 10 feet or so below the pavement here. So this canopy is really going to be -- the canopy itself, there's about a 9-foot-6-inch clear height for the vehicles to pass under. And then

you've got the roof structure, which is maybe another foot or so. So the canopy is going to be at or maybe even below the elevation of these roads here (indicating). So if that, you know, helps kind of paint the picture for you.

MR. HICKEY: Good evening. I actually did drive through where your building will sit when you get all done with this approach. If -- not through a parking lot, but through the main road near IHOP and came around behind there, you could access your drive-through beginning. What I ended up doing is I did it at noon, and at noon, Starbucks was packed with cars going through to get their coffees.

MR. OSTERHOUDT: Uh-huh.

MR. HICKEY: Extremely difficult to maneuver past where their exit point, pickup food point is without going straight through parking lots. And my concern is, if that parking that you've identified as your parking area is going to become very congested, if you have

cars parked and then having to drive through that just to get away from the Starbucks crowd that are trying to access their drive-through -- their drive-through is coming towards your people trying to leave.

MR. OSTERHOUDT: Yep. Right.

MR. HICKEY: So that -- that -- I have a concern with that, as well as what we just heard, emergency vehicles. If you were to have a fully packed parking lot with double cars going around to the border, emergency services is going to be a fairly hard thing to swallow.

MR. OSTERHOUDT: Yeah. We -- you raise a couple of good points there. So these are items that we've been talking with the planning board about. We have been talking with the fire chief about access. He had a concern with the double, you know, stack of cars in the drive-through and how could he get to a car if there was an emergency situation. So we're working through that right now.

We're actually -- we've talked with

the chief about the solution to that, and we've got a revised set of plans that are going into the planning board. They'll be going in on either Friday of this week or Monday, and those will be addressing the chief's concerns. So, you know, he's already been, you know, talking about those same items, and we've, you know, got some plan changes coming to address those.

MR. URDA: I would just echo what the applicant said. The planning board did discuss that in great detail at its last meeting, and the planning board will be vetting that in just as great of detail at their next meeting. So the planning board is fully aware of some of the circulation challenges and has expressed the willingness to work with the applicant to solve those.

CHAIRMAN THOMAS: Other questions?

MR. GRASS: No, sir.

CHAIRMAN THOMAS: What I noticed when I was -- I went at 9:00 on Monday, a holiday, there was nobody there. But

there's arrows in the parking lot, and obviously, they're faded and it hasn't been used by Ruby Tuesday's. But in the winter around here it can be very difficult because of snow and ice and buildup and so forth. I mean, the directionality signs and arrowing, will that be -- how will that be addressed? Because I was confused driving around, because it was Ruby Tuesday's and things have not been upgraded during this past summer season.

MR. OSTERHOUDT: Right. Yeah. Part of what the application materials to the planning board consisted of was a sign package. In that sign package, we have directional signs around the site to direct cars. We also have the pavement markings that were shown. We have the pavement arrows and stop bars, but we do have stop signs and directional signs to help the motorists when those, you know, might be covered.

CHAIRMAN THOMAS: All right. Very good. Thank you.

MR. OSTERHOUDT: Thank you. As I mentioned, Paul is here and, you know, able to run through the area variance criteria, if you'd like.

CHAIRMAN THOMAS: That will be fine.

MR. OSTERHOUDT: Touch on that. If there's other questions, I'd be glad to answer any other questions, too.

MS. FILIPPELLI: I actually have just one question. Did you guys look at different sites besides just this one? I mean, I'm assuming you did. I was just curious as to why this one was picked.

MR. OSTERHOUDT: So Chick-fil-A is a -- they're very detail oriented, and their site selection is very, very important to them, obviously. I know they did look at other sites in the area. I'm not, you know, at liberty to discuss which sites or anything like that, but this site proved to be, you know, the one that they wanted to move forward with.

And I think it's a great location for it given that it's kind of tucked into the -- the corner here. You know,

there's existing infrastructure in place. We don't have any direct access off of Arsenal Street or anything. You know, we're able to use the signalized intersection over here (indicating). There's a lot of pluses. It's also vacant today. It will redevelop it and get it active again on the tax rolls and, you know, bring some employment to the area as well. So good stuff.

CHAIRMAN THOMAS: I read in the application that you're closed on Sundays. Does that present increased traffic on Saturdays? Which I -- I think it's -- it's nice to see a business on Sundays honoring that day, but I just wondered if that created, perhaps, increased customer traffic, because I understand it's a very popular restaurant.

MR. OSTERHOUDT: It is a very popular restaurant. That's why we've got the two drive-through lanes to help, you know, move people through quickly and efficiently. Saturdays -- just like

other fast-food restaurants, you know, and other retail operations, Saturday is a busy day for people to be shopping, so there are, you know, more people out on Saturday shopping and dining out.

So it is a busy day, but I don't think the fact that Chik-fil-A is closed on Sunday makes it, you know, any different. And it is, that's another unique thing; right? They're not only focused on their customers and their customer service and efficiency of their operation, but they're concerned about their employees, too, and their partners, so they, you know, close. It's the only restaurant that I know of that's closed on a weekend day. You know, and they let people enjoy their families and, you know, their time off, at least have one day off a week. So ...

MR. HICKEY: I have one more. What is your estimate for Watertown for how many cars are going to be in the queue?

MR. OSTERHOUDT: So we've got enough queuing here for 36 vehicles, and that is

measured from this point (indicating), the entrance of the drive-through, to the pickup window. So a lot of other QSR restaurants, quick-serve restaurants, you'll see maybe stacks of 8 to 10, maybe 15. So, you know, we've -- we've accommodated a substantial number of stacks in the drive-through. And --

MR. HICKEY: And that's using both lanes?

MR. OSTERHOUDT: I'm sorry?

MR. HICKEY: Thirty six is using both lanes?

MR. OSTERHOUDT: Yes, that's correct. Yep.

CHAIRMAN THOMAS: Further questions?

MR. OSTERHOUDT: Thank you.

MR. VAN COTT: Hi there. I'm Paul Van Cott. As Rob indicated, I'm with Whiteman Osterman & Hanna, and we're land use counsel to Chick-fil-A. I'll be brief. I think Rob provided a really good summary. But, you know, what we're looking at is -- the chair is questioning is, we're really talking about the

distance -- the variance that we're seeking is the distance between the outside edge of this structure and our property line. And so we've -- in our letter -- our explanatory letter, we've gone through all the different criteria both in terms of New York State law, but also the city's code. And we've provided supporting documentation for why we believe that a variance is appropriate.

I just wanted to hit on a couple of things that really sort of underscore some of the points that Rob was making. We designed the project to provide enough stacking, you know, so that we can accommodate all the customers that will be coming to Chick-fil-A. Really, the only alternative we have -- given the configuration of the site and the PDD, the only alternative that we have is to design the circulation the way it's been done.

You know, if we push this over to the east, we'd exacerbate the problem and the conflict with Starbucks and the --

you know, we would lose this shared parking that we're going to be sharing with Starbucks. So really, we found ourselves in a position where this is the only alternative that we could do. And we've pushed the cover -- the canopy as far away from the property line as we possible can. As Rob indicated, right now this electric substation is actually in the existing parking lot. So we've moved everything to the east as far as we possibly could, and we still find ourselves in need of the area variance.

One of the unique things about this property is that even though we're 30 feet away from the property boundary, we're still 50 feet away from I-81 because you have the right-of-way right there. So we've done everything possible to minimize the variance that we're seeking.

The design of the canopy, as Rob indicated, it's very minimal. It's just what we need in order to accommodate the customers and the team members and

provide a cover for them during inclement weather. It's also a very thin design. So, you know, even with that, we've done everything we can to minimize the -- the variance that we're seeking for this structure. Okay, so that's the one point. I think, you know, from our standpoint in terms of our analysis, we can't make this drive-through circulation work on this site without the area variance that we're seeking.

The other point that I wanted to make was really to talk about the consistency of this proposed use and this canopy in the area. You know, we're obviously at the intersection of Arsenal Street and I-81. It's a very commercial -- intense commercial area. And there are other canopies in the vicinity. Speedway and Sunoco, they're closer to Arsenal Street than our canopy would be to Interstate 81. They're larger than our canopy. So, you know, we're consistent with the surrounding neighborhood, and we won't be causing any

injury to our neighbors or, frankly, from our perspective, any significant environmental impacts.

You know, as Rob pointed out, the Chick-fil-A site is below the elevation of Arsenal Street and as you're going down the -- or going out to the on-ramp on I-81, the visual impacts of this canopy will be minimal and really wouldn't be any different from our perspective if it's 20 feet within the setback or if it's outside of the setback. It's still going to be or would still need to be on this side of the building in order to provide the circulation (indicating). And because of the design of the canopy, it will blend in with the building.

So overall, we feel that the impacts are minimal, and we also feel that we have no alternative but for -- but to seek the area variance. Overall, we believe -- and, you know, Rob provided some good background on this -- we'll be improving the overall site, increasing

the landscaping. And we think it will make a significant improvement in the redevelopment of the former Ruby Tuesday's with all their sea of parking, as Rob described it.

So where we are now is we're obviously before you tonight. We've been before the planning board as Jeff and Rob explained, and we'll be back in front of the planning board on March --

MR. URDA: March 2nd.

MR. VAN COTT: March 2nd. And our hope is if the planning board votes favorably on the project, that we could be in front of the City Council on March 15th.

MR. URDA: March 15th.

MR. VAN COTT: So we hope you agree with our analysis of the area of the variance request. And if -- we would respectfully ask that you consider granting the variance tonight and sending the message to your other boards that we're on the right track. So thank you for your time.

MR. HICKEY: I've got one question or a couple of questions. How many shared parking spaces with Starbucks?

MR. OSTERHOUDT: So -- so we have nine parking spaces right here --

MR. HICKEY: Right.

MR. OSTERHOUDT: -- that are actually on the Chick-fil-A lease parcel, but those are going to be shared with Starbucks (indicating). It's anticipated, and one of the planning board comments was that these parking spaces should be for employees so that they're not impacting Starbucks' drive-through that you had mentioned or having less of an impact than regular customer parking would have. So those nine spaces are the shared ones that Paul had mentioned.

MR. HICKEY: Okay. Is there an agreement with Starbucks on that shared parking?

MR. OSTERHOUDT: Yes. That's -- so there's a common landlord that owns the larger property here, and Starbucks is

also at a tenant to that same landlord. So the landlord is kind of, you know, putting hand-in-hand and making the connection and working through these items with both tenants.

MR. HICKEY: Thank you.

MR. OSTERHOUDT: You're welcome.

CHAIRMAN THOMAS: Other questions by board members?

Mr. Urda, city's position?

MR. URDA: Planning takes no official position.

CHAIRMAN THOMAS: Thank you.

Mrs. Stone?

MS. STONE: I have no comment.

CHAIRMAN THOMAS: Okay. Thank you.

After hearing tonight's information, do you feel --

Normally, we hear a case on the third Wednesday of the month. The following month we would then vote on the case, but in some instances, if the zoning board members may feel compelled to vote this evening, they may choose -- we may choose.

So are we all in agreement to vote this evening?

MS. FILIPPELLI: Yes.

CHAIRMAN THOMAS: Some nods of the head, okay.

We do not have to complete the Part 2 SEQR because that will be done by the planning board.

MR. URDA: No. The city council is actually the lead agency. And normally, the granting of a setback variance would be a Type 2 action and would not even require a SEQR review. When the city council reviews the -- the seeker for the site plan, they'll consider the whole action.

CHAIRMAN THOMAS: Okay. Very good. Thank you.

MR. URDA: You have no -- you have no duties tonight on that.

CHAIRMAN THOMAS: So we need to close the public hearing, but are there -- were there any comments, Mr. Urda?

MR. URDA: (Shaking head side to

side.)

CHAIRMAN THOMAS: None, okay, from property owners.

MR. URDA: No. Planning received no comments from any nearby property owners nor any other members of the public.

CHAIRMAN THOMAS: Thank you. May I have a motion then to close the --

MR. HICKEY: Motion to close the public hearing.

CHAIRMAN THOMAS: A second?

MS. CROSSMAN: I'll second the motion.

CHAIRMAN THOMAS: And all in favor?

MS. FILIPPELLI: Aye.

MR. GRASS: Aye.

MR. HICKEY: Aye.

CHAIRMAN THOMAS: Thank you. I'll proceed with the voting.

An area variance request is being petitioned by the representatives of Chick-fil-A, Incorporated to reduce the setback requirement for construction of a detached order point on the west side of the building near Interstate 81 at

1290 Arsenal Street. This is located in a Planned Development District, which requires a 50-foot setback on all sides.

The requested area variance for a side yard setback of 31.8 feet, or a reduction of 18.2 or 36.4 percent, is moderate. The requested variance will not alter the character of the neighborhood or of the Planned Development District, and visual impacts are minimal due to the elevation of the land. For instance, Interstate 81 is higher than -- Route 81 and the businesses that exist in the area. And I perceive no environmental impacts, and the location is still 50 feet from Interstate 81 from the canopy point.

The applicant has presented a very thorough application. An ordering station is needed to easily expedite orders and to avoid customer delays and traffic backups. This ordering station will also provide for safe workstation for employees, as well as customers, and shall shield them from inclement weather

conditions.

Furthermore, the health, safety, and welfare of the community shall not be jeopardized, and there will also be increased green space, a significant level. There are concerns about the impacts with safety vehicles and traffic patterns, which are currently being addressed by the appropriate party.

It will be difficult to achieve the desired benefit by some other means. If the ordering canopy were placed on the other side of the building, it will most likely disrupt traffic patterns, reduce parking availability, and would cuff off customers from the residence -- restaurant designated parking lot. It would require them to cross the drive-through lanes to get to the building.

Lastly, I do not find this area variance to be a self-created difficulty. Therefore, I'm voting yes to requested area variance at 1290 Arsenal Street to allow for the construction of an ordering

canopy with a 31.8-foot setback.

Mrs. Crossman?

MS. CROSSMAN: In regard to Area Variance Number 566 for 1290 Arsenal Street, I agree with Mr. Thomas that the applicant has produced a very thorough documentation and thorough presentation about the reasons for the required -- or for the setback that they're asking for. And I believe it's a compelling argument, and they've met all of the legal requirements for requesting that in my opinion. So I vote yes to the 31.8-foot setback for Area Variance Number 566.

CHAIRMAN THOMAS: Thank you, Mrs. Crossman.

Mr. Grass?

MR. GRASS: File Number 566 is to reduce the side yard setback for an ordering canopy from 50 feet to 31.8. This is a reduction of 18.2 feet or 36.4 percent. I understand that such canopies are vital for the health and safety of the drive-through personnel and are an added benefit for speeding up the

drive-through process.

I agree with the applicants that the canopy will not negatively affect neighboring properties, as all properties in the area are also commercial properties. I vote yes.

MR. URDA: I suppose whoever wants to go next.

MR. HICKEY: Since I'm next to Sam, I will go next. This is in regard to File Number 566 for 1290 Arsenal Street, Chick-fil-A, request for an area setback variance. The -- the requirements are for a 50-foot setback; however, due to the area that the facility is going to be built on is requiring a 31.8 setback, which is a 36.4 percent reduction.

The dimensional alteration would not be seriously out of place. The overhead structures are in other facilities that are close to that. There are five points in an area variance. The second thing, any consideration for alternatives. Most of those have been presented to the planning board and have -- and will

continue to be updated and modified. Certainly, the board will look forward to seeing those modifications.

The third point is to make a reasonable judgment as to whether the nonconformity being proposed is too great. Our typical rule is 15 percent. We already mentioned that they're zoning in a 36 percent reduction; however, reasonable modifications are being considered for this, and I don't feel that that 36 percent is excessive. And since they already have a break, not only from the height level of the establishment as being lower than ground -- normal ground level and there is a very definite break in separation between Interstate 81, which obviously involves some federal requirements. And I feel there is enough of a ground break berm, we'll call it, that's going to separate your property from the federal property.

As far as -- potential impacts is the fourth one. Potential impacts

concerning the greenage, traffic circulation -- that one thing -- I'll stop at traffic circulation. That does definitely have to be looked at. I'm sure Chick-fil-A will examine that. I encourage you to go, you know, 7 a.m. in the morning or at noon and see what kind of a traffic flow that Starbucks actually gets. I was very surprised to see that I had to go through parking lots just to get out onto a main road. So you're coming to that point in your parking lot, hang a right to get onto the road and hang a left to go out, you might need to reconsider that. But beyond that, impacts of dust, noise, odor. Impacting on the emergency services, again, that's something that -- that needs to be addressed through Planning, among others.

I don't feel that you need a protective fence. I think that probably the berm would be more than enough to keep any -- anything that comes off of cars or anything into that area. And I don't consider, as the fifth item, is the

self-created difficulty. Your design number that you gave us was probably some of the best that I've seen. The packets you put together were also excellent, and I vote yes to the area setback variance for 1290 Arsenal Street.

CHAIRMAN THOMAS: Thank you, Mr. Hickey.

Mrs. Filippelli?

MS. FILIPPELLI: I'll -- I will not keep anybody in suspense. I'm obviously going to vote yes, so you have a unanimous decision. I just wanted to say a few things, though. I really applaud the green space. I think that's super important and very appreciated in this area. Again, what Mr. Hickey said, your plans and your presentation were obviously awesome.

And if you guys could just do the COVID vaccine, I think we can take care of the pandemic. So thank you very much.

MR. OSTERHOUDT: Thank you.

CHAIRMAN THOMAS: Thank you. We have five yes votes, and there are no nay

votes; therefore, your area variance has been granted. Congratulations in your future pursuit. And Mr. Urda, I would -- will be your contact person for permitting and so forth.

MR. OSTERHOUDT: Thank you all for your time this evening. We really appreciate your consideration.

MR. URDA: I will e-mail you a scanned copy of your decision form tomorrow, and I will get a physical copy out in the mail tomorrow also, which hopefully, will arrive Monday.

MR. OSTERHOUDT: Excellent. Thank you, Geoff.

MR. VAN COTT: Thank you.

MR. OSTERHOUDT: And I'll take this moment to -- and I'm sure you all know this already -- Geoff and all the staff that we've been dealing with on the project --

MR. VAN COTT: Oh, yeah.

MR. OSTERHOUDT: -- have been topnotch, great -- great to work with. It's been a pleasure, so we really

appreciate everybody's effort, not just your time tonight, but, you know, Geoff and all the staff that we've been working with. So ...

CHAIRMAN THOMAS: Well, that's good to hear. Thank you for that.

MR. URDA: Travel safe, gentlemen.

MR. OSTERHOUDT: Thank you.

MR. URDA: So as we move onto the second item, I would like to do a quick audio test just so Mrs. Quigg and Mr. O'Brien can both have a moment to speak briefly into their microphones to verify that you can hear it over the speaker and then in reverse.

(Whereupon, a brief recess was taken.)

MR. URDA: Sam, I'll turn it back over to you, and we'll do our best.

And thank you to both of you at home for bearing with us.

CHAIRMAN THOMAS: So we are moving onto number -- Case Number 567 for a use variance to allow professional office space in Residential A District located at 128 Ten Eyck Street. The applicant is

Dr. Walter Zabriskie. And I understand that the real estate representative has prepared and will be presenting on his behalf; is that correct?

MR. URDA: Ms. Voss -- Ms. Jennifer Voss was the lead planner that reviewed this. So if she communicated to that effect, then I will defer to whatever she communicated.

CHAIRMAN THOMAS: I feel the application was very thoroughly prepared, and a use variance are very difficult to prove. So if the applicant would like to address or highlight some points in the application and then we can entertain questions, perhaps, that would be an efficient way to conduct this use variance request.

MR. DEMARCO: Could you highlight some interesting portions of your application? Is that -- I mean, is that the best way we're going to do this? Okay.

MR. URDA: We can hear them so clearly.

MS. STONE: I see two gentlemen here. Maybe they're the ones that are presenting the application.

I don't mean to put you on the spot, but --

CHAIRMAN THOMAS: Okay. Please -- please state your name for the -- your name and --

MR. ZABRISKIE: Walter Zabriskie, and I live at 441 Paddock Street in Watertown. And I'm a recently retired dentist, and I'm here this evening to respectfully ask for a use variance for my office building located at 128 Ten Eyck Street in Watertown.

Now, does everyone have this overhead? Okay. I think that's very good. And you have the market data for a convergent back to a single-family residence? You have that, okay. Very good.

So I guess what I'll do is just give a little history of my building. When I purchased my building 34 years ago in 1986, it was a single-family home zoned

Residence C, which permitted the convergence to a professional office. I liked the size and the unique architecture of the building. Plus, I especially liked the downtown location.

Over the years, my staff and I also felt that we were part of the downtown business community within walking distance to banking, the library, restaurants, and the farmers market. It'd be nice if they were somehow running. It's something to look forward to.

My patients, many of whom are from out of town, especially from St. Lawrence County, also liked the downtown location. However, in April of 1989, the office zoning was abruptly changed to Residence A, and from then on, my office was grandfathered in as a nonconforming use. Now, 34 years later, I'm retired, and since June of 2020, I work with the National Dental Broker in an effort to sell my building to another dentist to satisfy the rules under the grandfather

stipulation. This effort has not been successful, and I was advised by the dental brokerage firm to list my office locally to try to expand the pool of prospective buyers.

This proved to be successful, and I now have a signed purchase offer from Bridgeview Real Estate Services, who would like to use the building for their Watertown office. This offer, however, is contingent upon obtaining a use variance for the property.

At this time, I would like to address the hardships resulting from the Residence A zoning restrictions for the proposed sale of my building.

Number one, if I'm forced to convert my office back to a single-family residence, it would be a huge investment. The interior is extensively partitioned with no kitchen or full bath. The backyard is a parking lot and the upstairs is an apartment, which is presently leased.

Now, if you can look at the pictures, the photographs that I have on page 1, you

can see what the interior of the office looked like now with partitions along the hallway. And you can see what the parking lot looks like. That doesn't look like a very attractive backyard for a family.

I would now like to refer you to the document prepared by Bridgeview, which estimates the total cost of converging into a single-family house at $273,000. This cost is prohibitive for me especially since I'm now retired, and there would be no guarantee whatsoever that a house of this size and at an asking price high enough to recruit my investment would sell to a single family.

As I mentioned in my cover letter, when I bought my property from Mr. Samuel Park, he said he had been trying to sell the home for over a year to a single family with no success. He said it was simply too large for a single family. Furthermore, the east end of Ten Eyck Street is not exclusively residential in character.

When we look at the page 2 photographs, you can see the two top photos. On the left photo, you can see my building. That's the building with the brown roof and the yellow stucco. Then you can see two small homes, and then right next to that red home is a large medical office. Across the street from me are these gray buildings. The one immediately across is a JRC group home. The one to the left is an apartment building, and then when I go around the back of my office, my property, I'm looking over my fence. You can see it just basically bumps up against a parking lot from the Victims Assistance Center. And then when I look to the left, I can see a parking lot and, of course, the state office building, but that's where the United Northern used to be right in the back. So you can see it is kind of surrounded by commercial entities. I can -- I can really see why the house was originally zoned Residence C also.

Two, I believe the requested use variance will not alter the essential character of the neighborhood, as has been described above. The plan convergent by Bridgeview will not change the exterior of the building. Maxine Quigg and Terry O'Brien from Bridgeview and my listing agent, Bill Elliot, the gentleman sitting next to me from Howard Hanna, are here to answer any further questions you may have regarding the project.

Furthermore, vehicular traffic in and out of a real estate office will actually decrease from that of a dental practice, which has patients scheduled every hour throughout the day.

Three, the hardship is unique and does not apply to a substantial portion of the neighborhood since the professional office in Zoning Residence A does not conform. And four, the hardship in question has not been self-created. And has been previously mentioned, my office was converted when the building

was zoned Residence C, and three years later, it was changed to Residence A.

In conclusion, I firmly believe that a use variance for my building would be in keeping with the existing character of the surrounding neighborhood. I also believe Bridgeview Real Estate Services, if their office were in my building, it would be of significant asset to downtown Watertown business community.

I thank you for your consideration of this request.

CHAIRMAN THOMAS: Thank you. Questions by zoning board members? Your office -- your building is in outstanding condition, especially the stucco, which is very difficult to try and maintain these days.

MR. ZABRISKIE: That has been amazing.

CHAIRMAN THOMAS: Yeah.

MR. ZABRISKIE: Yeah. I haven't even had to repaint it in 34 years, not the stucco part. The trim, I have, but it's a remarkable material, I must say.

CHAIRMAN THOMAS: And it's looked the same for years. It doesn't -- now, on the second floor, it's just one two-bedroom apartment?

MR. ZABRISKIE: Right.

CHAIRMAN THOMAS: Parking spaces in the back were to accommodate ...

MR. ZABRISKIE: Yeah, my patients. I think there's room for 25.

CHAIRMAN THOMAS: It's interesting -- just a piece of history for fellow board members -- to the right, you may mostly likely recall, it's the very large nine-unit apartment house --

MR. ZABRISKIE: Yes.

CHAIRMAN THOMAS: -- that lost its nonconformed status after having been vacant for a year. It was very -- it looked at one time, it appeared to be a single-family house with this very large add-on to the north, which housed many apartments. And the applicant did not prove the case of a use variance. It was denied and then it was demolished, and then a single-family home, I believe, in

2010 was constructed by Neighbors of Watertown on that lot. So ...

MR. ZABRISKIE: Is that the 167 Ten Eyck Street?

CHAIRMAN THOMAS: Right.

MR. ZABRISKIE: Yes, the big black house.

CHAIRMAN THOMAS: Right. It was -- and so now there's a single-family home there, but it was an improvement to -- that building was in a sad condition, and it was certainly deteriorating over the years.

MR. ZABRISKIE: Right.

CHAIRMAN THOMAS: The only thing -- Mrs. Stone, I raised this question the other day about if this use variance were granted, would a stipulation -- for instance, that properties change hands. And over time, and we've seen since the 1970s, Ms. Pflugheber, the next resident, and then yourself and now we're -- since 1975, we're now into, perhaps, the fourth ownership.

Is it possible to place the

stipulation that in future sales, the first floor should be considered for professional office use, if one chooses not to convert that back into a single-family home?

MS. STONE: Yes. If we were to grant the variance --

CHAIRMAN THOMAS: Could you -- I can't hear.

MS. STONE: I'm sorry. If you were to the use variance, you can place reasonable conditions, and if that's a condition that the Board would consider, yes, you could.

MR. URDA: He wants the condition to be it could not be a duplex.

MS. STONE: Right. You just want it to -- the first floor would be only office space and then --

CHAIRMAN THOMAS: Right.

MS. STONE: -- the second floor could be as --

CHAIRMAN THOMAS: The apartment -- the two apartment --

MS. STONE: -- the apartment.

CHAIRMAN THOMAS: To maintain --

MS. STONE: Right. And you could place that as a condition and not convert it to a multifamily dwelling. Is that the question you were asking?

CHAIRMAN THOMAS: Yes.

MS. STONE: Yeah.

CHAIRMAN THOMAS: Questions? We have to complete a SEQR before we go to our vote. Do -- we can obviously complete the SEQR tonight. Do fellow board members feel that they need additional time to consider this application, or would you like to vote on this?

MR. HICKEY: We can vote.

MS. FILIPPELLI: I'd like to vote.

CHAIRMAN THOMAS: Okay. Great. Mr. Urda, city's position?

MR. URDA: City takes no position.

CHAIRMAN THOMAS: Okay. Thank you.

Mrs. stone?

MS. STONE: I take no position either.

CHAIRMAN THOMAS: Okay. Would you

have that?

MR. HICKEY: I do.

CHAIRMAN THOMAS: Oh, good. So we're going to make a motion to close the public hearing if there are no further -- before I do that, Mr. Urda, were there comments from neighbors?

MR. URDA: Planning staff received no comments from any neighbors or any other members of the public.

CHAIRMAN THOMAS: Any comments from our virtual applicants?

MR. DEMARCO: Are there any questions from the folks at home?

MS. QUIGG: No.

CHAIRMAN THOMAS: Is it Brookfield or Ridgeview Real Estate?

MS. FILIPPELLI: Bridgeview.

CHAIRMAN THOMAS: I'm sorry. I did get that right. Okay. I saw that. So may I have a motion then to close the public hearing?

MR. HICKEY: Make a motion to close the public hearing.

CHAIRMAN THOMAS: May I have a

second on that motion?

MS. CROSSMAN: I'll second that motion.

CHAIRMAN THOMAS: All in favor?

MR. HICKEY: Aye.

MS. FILIPPELLI: Aye.

MR. GRASS: Aye.

CHAIRMAN THOMAS: Very good. Okay. This is a Short Environmental Assessment Form Part 2, Impact Assessment. Please answer no, or small impact may occur, moderate to large may occur. There are 11 questions.

Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

MS. CROSSMAN: No.

MS. FILIPPELLI: No.

CHAIRMAN THOMAS: No.

Will the proposed action result in a change in the use or intensity or use of land?

MR. HICKEY: No.

CHAIRMAN THOMAS: No.

Will the proposed action impair the

character or quality of the existing community?

MR. HICKEY: No.

CHAIRMAN THOMAS: No.

Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

MR. HICKEY: No.

CHAIRMAN THOMAS: No.

MS. FILIPPELLI: No.

CHAIRMAN THOMAS: 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?

MR. HICKEY: No.

MS. CROSSMAN: No.

CHAIRMAN THOMAS: No.

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? No.

MR. HICKEY: No.

CHAIRMAN THOMAS: Will the proposed action impact existing public/private water supplies?

MR. HICKEY: No.

CHAIRMAN THOMAS: No. Public/private wastewater treatment utilities?

MR. HICKEY: No.

CHAIRMAN THOMAS: No.

Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources?

MR. HICKEY: No.

MS. CROSSMAN: No.

CHAIRMAN THOMAS: Will the proposed action result in adverse change to natural resources; example, wetlands, waterbodies, groundwater, air quality, flora, or fauna?

MS. FILIPPELLI: No.

MS. CROSSMAN: No.

CHAIRMAN THOMAS: Will the proposed action result in an increase in the

potential for erosion, flooding, or drainage problems?

MR. HICKEY: No.

MS. FILIPPELLI: No.

MR. GRASS: No.

CHAIRMAN THOMAS: Will the proposed action create a hazard to environmental resources or human health?

MR. HICKEY: No.

CHAIRMAN THOMAS: May I have a motion to ...

MR. HICKEY: I move that we adopt the resolution finding that the proposed variance will have no significant adverse effects or environmental impacts.

CHAIRMAN THOMAS: May I have a second on the motion?

MS. CROSSMAN: I'll second that motion.

CHAIRMAN THOMAS: All in favor?

MR. GRASS: Aye.

MS. FILIPPELLI: Aye.

MR. HICKEY: Before we go to vote, may I ask a question of the perspective applicant? Is that possible? It just

came to mind.

Are you planning -- and I know this is not an architectural review board, but for the integrity of the neighborhood, are you planning significant changes to the exterior of that building?

MS. QUIGG: No, we're not changing anything on the outside of the building except for its signage.

CHAIRMAN THOMAS: Okay. And you understand a Residence A -- I think that's, what, 8 square feet of signage is allowed? I can't recall, but its signage -- it's still in Residence A. So your signage will be --

MS. QUIGG: The signage will be removed; is that what you're saying? The signage will be removed?

CHAIRMAN THOMAS: Well, I understand Dr. Zabriskie's sign will obviously. You will have right to have signage on that building, but just keep in mind it's somewhat restricted in a Residential A, how much -- the size of signage.

MR. URDA: Would you like me to look

it up?

CHAIRMAN THOMAS: Yeah.

Mr. Urda's going to look that up.

MS. QUIGG: Okay. Because as a real estate brokerage, we do need to advertise the name of the brokerage on the exterior of the building. It's a Department of State law.

MR. URDA: A lot of pressure. I'm in the sign section.

CHAIRMAN THOMAS: I hope you're going to keep that -- in the office there was a piece -- a picture of Dr. -- or Egbert Ten Eyck with a history of him.

MR. ZABRISKIE: Oh, yeah.

CHAIRMAN THOMAS: Yeah, that should just go with the building.

MR. ZABRISKIE: I will leave it there. Yeah, he was a prominent Watertown lawyer.

MR. URDA: Residence A, B, and C have a maximum signage surface area of 4 square feet.

MS. CROSSMAN: Oh.

CHAIRMAN THOMAS: Well, you are

always welcome to apply, if you feel you need to, for an area variance to increase signage if/when you get to that point.

MS. QUIGG: I'm sorry. I couldn't make that out.

CHAIRMAN THOMAS: You're allowed 4 square feet of signage.

Mr. Demarco?

MR. DEMARCO: Residence A, B, and C districts are allowed 4 square foot of signage per structure. So you're welcome, when you get to that point if you're interested in looking to increase that signage, to apply for a variance.

CHAIRMAN THOMAS: Okay. Well, I'll proceed with the voting.

MR. URDA: Actually, Chairperson, do you have a blank copy of the decision form?

CHAIRMAN THOMAS: Oh, yep.

MR. URDA: Would you mind if I made a photocopy of that before you begin the voting?

CHAIRMAN THOMAS: Let me find it. Wait a second. Ah, yes, I do.

MR. URDA: Sorry to make everybody hit pause.

CHAIRMAN THOMAS: We'll wait for Mr. Urda's return.

Okay. I shall begin. A petition for a use variance request has been presented in reference to 128 Ten Eyck Street to allow professional off -- to allow for a professional office in a Residential A district. According to Section 310-4 of the zoning ordinance, a professional office is not allowed use in a Residence A district.

A use variance request is very difficult to prove as the applicant must show that he or she is deprived of all economic use or benefit from the property. This means that a reasonable return cannot be realized from any use that is presented -- permitted by zoning regulations.

The existing dental office was in operation from 1986 until June of 2020, and when it was established, the property was zoned Residential C. The second

floor of this home continues to house a two-bedroom apartment when the zone change was enacted many years ago. The dental office and second floor apartment were given a grandfather establish -- status.

At this time, Bridgeview Real Estate firm wishes to establish offices on the first floor and to maintain the second floor apartment containing two bedrooms. A very detailed estimate was submitted to the Zoning Board of Appeals, which clearly outlined the needed cost in renovations to convert this structure to a single-family home, which is the only permitted use in a Residential A neighborhood.

The total cost of the conversion is approximately $273,000. This estimate does not include additional expenses that are often discovered when embarking upon renovations projects. When convergent costs and the current value of the building listed at 175,000 are taken into consideration, a total amount comes to

$448,000 the total value -- for the -- total value of the home.

It is apparent that the applicant cannot yield a reasonable return on this property given the value of the property and the cost to restore it to a single-family residence in order to be in compliance with zoning regulations.

Advertising and marketing for a dental office was also explored in the past six months, and a dental practice had opted out of a potential sale. I feel that this hardship has been more than adequately proven by the applicant, and it's not self-inflicted.

One should keep in mind that the east end of the hundred block of Ten Eyck Street near Washington Street is comprised of multifamily dwellings, a large group home serving the needs of the disabled, and a few single-family residences, which are smaller in size than the applicant's petition at 128 Ten Eyck Street.

A real estate office will not alter

the essential character of the neighborhood, but will hopefully maintain a long-term stability of 128 Ten Eyck Street, which is in excellent condition. There will most likely be less traffic generated at this location as patient appointments and support staff will no longer exist, but will be replaced with clients who are interested in real estate listings, brokers, and staff.

I vote yes to the requested use variance for 128 Ten Eyck Street allowing a real estate office to occupy the first floor, but I also want to add the stipulation that we discussed in tonight's meeting. Should 128 Ten Eyck Street be for sale in the future and a convergent to a single-family home is unlikely, the first floor should be considered for professional office use, such as medical, dental, mental health, et cetera. And the second floor is to remain as a two-bedroom apartment, and the home is not to be converted into a multifamily dwelling.

MR. URDA: Sam, just for legalese, multifamily in the city is four or more. So if you wanted it to not be able to be converted into even a two-family dwelling, you need to specify that.

CHAIRMAN THOMAS: So the second floor apartment can remain as a two-bedroom apartment, and there are -- there is not to be further convergence of the space into apartments, for instance, either on the first or second floor. Is that clear?

MR. URDA: Perfect. Yeah.

MS. FILIPPELLI: I actually have one question. Could they -- if they chose to move offices up to the second floor, would that be allowed?

CHAIRMAN THOMAS: That's a good question.

MS. FILIPPELLI: I don't know how that --

MR. URDA: That's up to the board. I mean, if they want to --

MS. FILIPPELLI: Right. I think that should be an option for them. I

mean, if they're growing --

MS. CROSSMAN: So --

MR. URDA: I believe -- I think the variance -- the variance covers that because the use variance allows the applicant to operate a professional office, so a second professional office on the second floor would be covered by that variance.

MS. FILIPPELLI: Okay. I just wanted to make sure.

CHAIRMAN THOMAS: Okay. Would that be a second -- if you were to move to the second floor and the real estate firm was expanding and needed that space, or are we talking about another business? We need to be clear about that. Saying the second floor -- perhaps there's another professional office use that would like to take advantage of that space, should it -- you know, it's -- I'm not the decider here. I'm just bringing this out so --

MS. STONE: Well, I think you should discuss that, because if they decided

that they wanted to expand or needed more additional space and they wanted to remove that second-floor residence, the second-floor apartment, that you need to discuss whether it's just for the expansion of the existing professional office. Or if another -- a second professional office wanted to use that second-floor office as office space, how you are going to handle that? And then you've got the issues with -- I'm sure with -- with the building codes requiring an elevator and all, you know, the handicap accessibility and all that stuff. So it might even be cost-prohibitive to have a second floor, so I don't know. But anyways, I think you should discuss that.

MR. URDA: I have a comment as well, but I'll wait until after this discussion.

MR. HICKEY: Okay. Do we need to reopen public hearing?

CHAIRMAN THOMAS: Do we need to reopen the public hearing on this,

Mr. Stone?

MS. STONE: Well, I don't know how the other -- I mean, you -- you were the first one to make that as a condition to your yes vote. So I don't know how the other board members feel, if they're just going to vote yea or nay or have a --

CHAIRMAN THOMAS: Well, it's still --

MS. STONE: It's still a condition, but I mean, I think if you're going to want to ask additional questions, I think, yes, you need to reopen the public hearing.

CHAIRMAN THOMAS: We'd be more than willing to open the public hearing if there is to be further discussion.

MR. HICKEY: I think we should reopen.

CHAIRMAN THOMAS: Okay. I'd like to make a motion to reopen the public hearing for 128 Ten Eyck Street.

MR. HICKEY: I'll second that.

CHAIRMAN THOMAS: All in favor?

MS. CROSSMAN: Aye.

MS. FILIPPELLI: Aye.

MR. GRASS: Aye.

CHAIRMAN THOMAS: Very good. So the question that was raised -- and it's a good one, Mrs. Filippelli -- if somebody wanted to access the second floor, either the present real estate office, to expand -- or should we -- I think what we're -- we're discussing here -- or if another business wanted to utilize that space. But keep in mind, building codes comes into play as it was stated by Mrs. Stone. That could be cost-prohibitive, but thoughts?

MS. FILIPPELLI: I mean, maybe we should ask the applicants if they intend -- like intend -- I don't want to --

CHAIRMAN THOMAS: Okay.

MS. FILIPPELLI: -- like, further, like, make them wait even longer. But at the same time --

CHAIRMAN THOMAS: We need to discuss it.

MS. FILIPPELLI: Yeah, we need to

discuss it.

CHAIRMAN THOMAS: I'm not sure if they heard this, Mr. Demarco, but --

MS. FILIPPELLI: Yeah.

CHAIRMAN THOMAS: Do you want to raise your question, because --

MR. DEMARCO: You -- you could come over here (indicating).

They could probably leave their seat --

MR. URDA: Yeah, that's fine.

MR. DEMARCO: -- to be completely clear. Just so -- I mean, I don't want to, on the record, screw anything up and then there's decisions made. So if you would maybe, like, to do that.

MS. FILIPPELLI: Yeah, I have no problem coming over.

MR. DEMARCO: Okay.

MS. FILIPPELLI: Hi. My question was -- in the variance it said that the second floor would have to remain an apartment. So my question was, if you so chose to expand your offices or should another, say, like a mortgage company or

somebody else wanted to use that space, could it be turned into -- could it be turned into professional space? Do you even have any intention of doing that? Or is it okay to keep it that an apartment can only be there? That's the question I had.

MS. QUIGG: Is that a question to Terry or I? I'm sorry.

MS. FILIPPELLI: Yep. Yeah, that's to you guys.

MR. URDA: Sorry. The camera is pointing that way, not at you (indicating).

MS. FILIPPELLI: Oh, sorry.

MS. QUIGG: So as of right now, we -- our intention would be to keep the apartment. I can't imagine that we'll be expanding our space as a real estate brokerage. And from my professional opinion, any office that can help underwrite its cost with a revenue-generating rental is a positive for the property and it actually increases its value.

So with the amount of square footage on the first floor and the very small portion on the second floor also that is currently used for the dental office, I think there's more than adequate space for us and another doctor or dentist office. If it was an extensive attorney firm or, you know, something like that, it may not be enough room. But I certainly don't foresee us in the near future or any time wanting to expand into that square footage.

MS. FILIPPELLI: The reason I --

MS. QUIGG: Does that answer your question?

MS. FILIPPELLI: It does. The reason I was asking this question is because they were -- the chairman was making a stipulation that it would always have to remain an apartment and it could not be converted into a duplex. That's why I was asking the question. So I just wanted to make sure you guys were okay with that stipulation.

Does that make sense?

MR. ZABRISKIE: Yeah.

MS. QUIGG: I think the way I feel is that, certainly, I like the flexibility that, when we are faced with the notion of selling the property, we have as much flexibility as possible. So if that meant that converting that space into a single-family residence, that would make it a two-family residence. And I think what you are saying is that with the variance, how you would want to word it, that would not be a possibility.

I think we're comfortable with that, making it as a professional space with a single-family apartment upstairs. But I will say it certainly would be helpful in the future in trying to sell the property to have that flexibility for it to go back to -- or that new owner to have the option to convert the first floor into a single-family residence, again, making it a multifamily home.

It's a huge square footage on that main floor. You know, easily you could have a beautiful three-bedroom, two-bath

home right there if you utilized the small upper area as well on the second floor.

CHAIRMAN THOMAS: So that's another piece to the stipulation that we were discussing.

MR. URDA: Does the board have any particular concerns about a future potential conversion into a duplex? As the city's ongoing -- for full disclosure the city's ongoing zoning rewrite moves forward, there's a distinct possibility that two years in the future a duplex might be legal by right on that property anyway. So I was wondering if there were any particular concerns that the board had over -- over a future conversion to a duplex.

MS. CROSSMAN: I personally don't have any issues with that. I know we've seen this come before us where we have a lot of these older, large homes in the city that oftentimes are faced with the -- the problem of not being able to sell because of the size of the home. So

sometimes converting into a multifamily is one of the only options they have left.

It's -- you know, obviously, first choice would be to maintain these older homes in the city as they are as a single-family residence. In my opinion, this one has already been converted. It's already being used as a professional office and as a -- as an apartment. So to convert it to a two-family, I don't think is really going to change a whole lot. In fact, you know, if you have a good landlord that's keeping an eye on things, which is what we always look for.

That has a huge parking space there, and as we talked about, the conversion from the dentist office to this professional office is already decreasing traffic. If it were converted to an apartment in the future, there would be even less traffic there and certainly plenty of parking.

CHAIRMAN THOMAS: My only concern is single-family, two-family, it depends on,

as you know -- because maintaining these large homes, one has to be very astute, you know, with the things that could -- that could be problematic.

And Mr. Urda, I know that we've talked before about the potential zone changes for that neighborhood. I'm not sure how the residents would react to it because here on this board in 2016, there was a house -- a six-unit house that lost its non -- it lost its noncompliant status. It was vacant for a year. And many neighbors showed up at a hearing protesting the continued use as a six-family or six-unit home.

MR. URDA: I remember that one distinctly.

CHAIRMAN THOMAS: Yeah. It -- they never -- so it never really -- they were supposed to come back, but I think.

MR. URDA: They withdrew. In this case, even if down the road it stayed single-family zoning, any new occupant that wished to convert it to a duplex would still have to request a use

variance in the future for that. Obviously, if the zoning changed and it was duplexed by right, then it wouldn't -- it wouldn't be relevant anyway.

But if -- if Bridgeview moved out in five years and it was still zoned Residence A or the equivalent thereof, whoever wished to convert it into a duplex then would still need to apply for a use variance at that point in the future. All you would really be doing by putting the stipulation on this is, in essence, preempting a future applicant from applying for a use variance. I don't know if Ms. Stone wishes to add anything.

MS. STONE: I was just going to echo what Mr. Urda said about if the zone was changed, if the -- including duplexes in that neighborhood, then nobody would have to come back and ask for a different type of use variance. It would all -- already be an acceptable use in that neighborhood.

Certainly, if the Board is concerned about multi -- you know, multifamily -- two-, three-, four-unit apartment dwellings in a Residence A neighborhood, I think that's a very -- you know, I think it's a reasonable condition to put on it, if you understand what I'm saying.

CHAIRMAN THOMAS: Uh-huh. So if the zone change occurs, and I'm not sure -- in a B, you can have up to three units.

MR. URDA: Right.

CHAIRMAN THOMAS: So I think we're going to Residence 2 or something like that.

MR. URDA: Right.

CHAIRMAN THOMAS: So the next level would be allowance for three units.

MR. URDA: Yes. I guess what I'm saying is that the board would still have oversight. You wouldn't need to put a condition on this variance to prevent a duplex. The board would still have oversight because a two-family dwelling is still a use not allowed in Residence A, as of now, and it's also not

a use that this use variance allows. So the board would still maintain the oversight to, you know, vote yea or nay or weigh that in the future.

Any future occupant under Residence A zoning, as long as it stays Residence A, would still need to apply for a use variance in the future, which a ZBA in the future could deny if that applicant didn't meet the hardship tests.

I guess what I'm saying, the safety valve that you're looking to impose with the condition already exists in the form of a need to apply for a future use variance.

MS. STONE: Just -- just to clarify, I think if you wanted to vote in favor of the use variance, what we're voting in favor is use of the property as a professional build -- office building. Right now, it's -- downstairs is a professional building office space with the upstairs a one -- two-bedroom apartment.

So if you were going to vote in

favor of the use variance, then they could either convert it first and second floor to professional or just leave it the way it is. And as what Mr. Urda was saying, if they wanted to convert the downstairs to a -- an apartment, they would have to come back to the ZBA unless the zoning was changed for that allowance.

CHAIRMAN THOMAS: I'm comfortable in -- and if others feel differently, I completely understand. With a professional office use, maintaining the second-floor apartment, but if the real estate company expands and so chooses to use the entire space for professional office -- for a professional office, that would be fine.

I think we also need to clarify, too, say, it's a real estate office and, perhaps, an accounting or law firm wanted to take advantage of the second floor, you know, it's a lovely neighborhood over there. Perhaps -- location, they say, is everything. And should we specify with

only the business that's presently wanting to go there would be the real estate office? Or should we open it up to a second professional office use on either the second floor or, perhaps, a piece of the first?

MR. URDA: That would be up to the -- I think that would be up to the board. I mean, you could word the variance to -- to say that the single-professional-office use can be there with the apartment upstairs to remain, or you could write it that a single-professional use may use the property and may be entitled to use the entire building for that one professional use. Or you could simply say that professional office is allowed on that parcel, period, which would open up the second floor if there -- there's three possibilities. You could allow one. You could allow two, or you could allow all three. But you should be specific as to what you're allowing.

MS. CROSSMAN: Well, and like we

previously discussed, our decision to allow professional office space on the second floor does not supercede code requirements. So if they --

MR. URDA: Right.

MS. CROSSMAN: -- decided to expand into that, they would have to make it handicap-accessible, elevator, et cetera.

MR. URDA: Right. The way that the variance is written now or the way the decision form is written now, I would interpret that as saying that professional office use is being allowed, which means that that would include the second floor, whether it was the same office, Bridgeview Reality, or if it was a second office tenant. That's how I'm interpreting it the way it's written right now.

MS. FILIPPELLI: I'm sorry. I didn't mean to make this a big thing. I was just -- I was just trying to make sure that you guys didn't get stuck again.

MR. URDA: No, it's a good question.

MS. FILIPPELLI: Sorry.

I'm sorry, Sam.

CHAIRMAN THOMAS: Oh, no, no, no. It's okay. This is -- these are -- I always find these cases intriguing because they're historic residential neighbors and, you know, I live in one, too. It's a lot of work. We want to the direct integrity of these homes, and it's -- it's a huge challenge, as you know.

So I mean, what's the -- what's the preference of the board members? How would you like ...

MR. HICKEY: That professional offices are allowed.

MS. FILIPPELLI: I agree.

MS. CROSSMAN: I do -- we wouldn't need to set a maximum apartment as we discussed because that would have to come before the board in the future anyway. So I think we can skip anything like that.

MR. URDA: You could set a maximum of two professional office tenants. That

way you don't convert every last room into -- into another tenant. So if you wanted -- if you were comfortable saying no more than two professional office tenants on the property, then -- then I think that would be reasonable.

CHAIRMAN THOMAS: I like that. Are people comfortable with that, maximum of two professional offices for that particular location?

MR. HICKEY: Yep.

MR. GRASS: My only concern is that it would be chopped up into multiple small efficiency apartments.

MS. CROSSMAN: Right.

CHAIRMAN THOMAS: Yeah. I -- that always bothers me. At least I'm getting --

MR. URDA: You couldn't do that without a use variance. So ...

MR. GRASS: Right. And you said we were protected by --

MR. URDA: Yeah. Any -- anyone that wanted to do that in the future would have to come back before the board.

MR. GRASS: Yeah.

CHAIRMAN THOMAS: That's scary. It's happened here and it's ruined a lot of houses.

MR. URDA: I can tell through my participation with the zoning rewrite committee, that by right, you would not see more than two. The potential exists for a duplex by right, but I think it would -- it would stop at two. And then anyone that wanted three or more would find themselves still right back before you guys.

MR. GRASS: Right. So we would -- they would have to apply again.

CHAIRMAN THOMAS: So are people comfortable with that stipulation that Mr. Urda outlined with a maximum of two professional office spaces?

MR. HICKEY: Yeah.

MR. GRASS: Yeah.

MR. URDA: I would say two professional office tenants --

CHAIRMAN THOMAS: Two tenants.

MR. URDA: -- to be very clear.

CHAIRMAN THOMAS: We'll make a motion -- are we ready to close the discussion? We make a motion to close the hearing.

MR. HICKEY: Motion has been made a second time to close the public hearing.

MS. CROSSMAN: And I'll second that second motion.

CHAIRMAN THOMAS: All in favor?

MS. FILIPPELLI: Aye.

MR. HICKEY: Aye.

MS. CROSSMAN: Aye.

MR. GRASS: Aye.

CHAIRMAN THOMAS: Very good. Thank you. We'll continue the voting.

Mrs. Crossman?

MS. CROSSMAN: In reference to use Variance Number 567 to allow professional office space in a Residence A district at 128 Ten Eyck Street, I believe that detailed evidence has been produced or -- to prove that this request would not alter the essential character of the neighborhood, is unique to the neighborhood, and is not self-created,

and the financial burden is too significant to convert the home -- I'm sorry, the building back to a single-family home. So I vote yes to the use variance Number 567 to allow the building to be used for a maximum of two professional office tenants.

CHAIRMAN THOMAS: Thank you.

Mr. Grass?

MR. GRASS: File Number 567 is a petition for a use variance. In 1986, the property was zoned Residential C. In 1989, it was rezoned a Residential A.

Pardon me if I pronounce your name wrong, sir.

Dr. Zabriskie --

MR. ZABRISKIE: You've got it.

MR. GRASS: All right.

-- wishes to sell his property to a real estate company and currently cannot because it's zoned grandfathered in if it remains as a dental office. To remodel this business to a private residence is a financial burden. I find no reason not to grant the use variance. I vote yes.

CHAIRMAN THOMAS: Very good. Thank you.

Mr. Hickey?

MR. HICKEY: This is in regards to File Number 567 for a use variance for 128 Ten Eyck Street to allow professional office space in a Residential A area. Four main items that need to be considered are -- for considering this request is that dollars and cents be clearly established and that we can prove that a lack of reasonable return can be shown. And that's very evident with the requirement of needing $273,000 to convert this dentist office to a residential property, especially when you're dealing with the overall cost of the present value of $175,000.

Clearly, there is no way in that neighborhood for that kind of a house that would be able to do that. There's no material changes to the ground that's taking place on the exterior of the property. It is unique, and there are also multiple-family dwellings in the

area. Since we are having no exterior changes, we're not altering the character of the neighborhood. And since it was previously zoned properly there and it was grandfathered in 1989 with the zoning change from a Residence C to a Residence A, I don't feel that there's an unnecessary hardship that has been established. I do add the one condition that two -- a maximum of two allowable tenants for that property in a professional office, so I vote yes.

CHAIRMAN THOMAS: Ms. Filippelli?

MS. FILIPPELLI: I won't take up anymore of your retirement. For File Number 567, I vote yes with the stipulation that's already been in place, and I wish you a happy, long retirement.

MR. ZABRISKIE: Thank you very much. This will -- this will really help it out a lot.

CHAIRMAN THOMAS: We have five yes votes, and your area -- use variance has been granted. Mr. Urda --

MR. ZABRISKIE: I really appreciate

your time. It's quite enlightening.

MR. URDA: Thank you for your patience. I will get the decision form to you in very reasonable time.

MR. ZABRISKIE: Okay. Thank you very much.

CHAIRMAN THOMAS: Thank you very much.

(A discussion was held off the record.)

CHAIRMAN THOMAS: May I have a motion to close tonight's meeting?

MR. HICKEY: Motion to close tonight's meeting.

CHAIRMAN THOMAS: All in favor -- or second on the motion?

MS. CROSSMAN: I'll second the motion.

CHAIRMAN THOMAS: Okay. All in favor?

MR. GRASS: Aye.

MS. FILIPPELLI: Aye.

CHAIRMAN THOMAS: Very good. Thank you.

(Whereupon, the meeting concluded at 8:44 p.m.)

C E R T I F I C A T I O N

I, TIFFANY-JO PONCE, Court Reporter and Notary Public in and for the State of New York, DO HEREBY CERTIFY that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing is a true and correct copy of same and the whole.

TIFFANY-JO PONCE
Court Reporter

Dated: March 12, 2021