

The Mechanicville Zoning/Planning Board held a meeting at the Mechanicville DPW Building, 4 Industrial Park Drive, Mechanicville, New York on March 15, 2022 Chairman Frank Scirocco opened the meeting at 7:00 P.M.

Roll Call:	Frank Scirocco	- present
	Robert Chase	- present
	Richard Delaney	- present
	Martin Doyle	- present
	Ed Morcone	- present
	Dan O'Connor	- present
	Addie Waldie	- absent

The Pledge of Allegiance was led by Bob Chase.

Frank Scirocco: Has everyone had a chance to read the minutes from the last meeting? Is there a motion to accept?

Motion by:	Dan O'Connor
Seconded by:	Richard Delaney

Ayes: 6 Nays: 0

Frank Scirocco: First application is from Luke Palumbo, we acknowledge the receipt of the public hearing was dually published in the official newspaper, the Daily Gazette. Luke Palumbo is here for a special use permit, a use variance, and a site plan. Is this not correct?

Gina Kenyon: No, that is not correct, he is here for a special permit, and he does not need a use variance.

Frank Scirocco: Tell us what you want to do.

Luke Palumbo: Yes, I have a two family that I own on South Central Avenue right next to the Stewart's I am looking to convert the two (2) family to a four (4) family. There is a basement unfinished and I am looking to finish it and turn it into a one (1) unit, the upstairs would be split in half creating two (2) units on the first floor, one new unit in the basement and one (1) existing unit on the second floor and basically that is it an interior build. Remodel the basement; finish it into two (2) livable spaces.

Frank Scirocco: So you want to take a two (2) family and make it a four (4). No alterations to the outside of the building, no expansion to the building?

Luke Palumbo: No.

Frank Scirocco: For the record the Saratoga County Planning Board found no significant county or intercommunity impact. I guess the biggest question is, for the board, is whether or not granting this will have an undo adverse effect on the property, adjacent property, character of the neighborhoods, and surrounding areas. I guess the biggest question is parking.

Luke Palumbo: There is ample parking, I have four (4) spaces right now in the front and that covers all the residents that live there now, and there is a whole driveway that spans the length of the house on the side. The driveway is completely enclosed between the Stewart's fence, the back garage, and the house. The driveway can handle at least twelve (12) cars, it is a fairly large driveway, fairly wide, fairly long, we would not be intruding onto anyone else's property it is bordered within my own.

Frank Scirocco: Do you want to show me where the parking is on this drawing.

Luke Palumbo: That is the layout of the basement but I can show you that the shape of the house (showed layout of driveway on map).

Frank Scirocco: So you will be able to park eight (8) cars there no problem. Martin?

Martin Doyle: Mine basically goes to the parking. You show the lines for the four (4) parking spots in front can they get out, maneuver around without pulling out into Central Avenue.

Luke Palumbo: Yes I measured it to the minimal requirements for parking space and that is how I built that I just painted them this summer, I have had residents there since March of last year parking within there you will see four (4) cars in there often, between two (2) tenants upstairs and two (2) tenants downstairs there is four (4) cars there and they never have trouble backing out. The slots are angled so they can swing out and be parallel to the road and not straight back into the road.

Martin Doyle: Ok, so they can maneuver easily without becoming a hazard with people coming down Central Avenue.

Luke Palumbo: They all have sedans currently and I have a truck and I have been able to easily back that truck out of there, not putting a hazard to anyone coming down that road.

Martin Doyle: You say it is twelve (12) foot wide between the house and the fence.

Luke Palumbo: A rough entrance at the entrance of the driveway up at the top of the hill but at the bottom the width expands twenty plus (20+) feet so they will be able to turn around down at the bottom of the driveway and not have to back all the way up the driveway into the street to get out.

Martin Doyle: Bypass anybody that might be parked in the driveway.

Luke Palumbo: Before it bottlenecks there is enough room for cars to turn around down there and be able to drive up straight.

Martin Doyle: That was my question.

Frank Scirocco: Robert?

Bob Chase: If you are parking in the driveway, what about those garages that are in the back of the house. Are they rented and are people going to be able to get in and out of those.

Luke Palumbo: I offer the far right side as extra storage right now, if you notice part of that block wall kind of overlaps the doorway it does not allow a car to fit into it, the only bay that allows cars to fit is that middle door and that from there to the left side all the way is my personal space, a workshop and no cars really park in there. If there was ever to come and change I would just tell them they would have to work upon themselves to ensure that stays open.

Bob Chase: You have a minimum amount of greenspace, is there any lawn there at all?

Luke Palumbo: There is a raised bed, 12 x 8 section of a raised bed going down the driveway over to the left and then the whole chain link fence line there is a couple foot wide strip of grass from the front of the house to the back.

Bob Chase: But no real place for kids to play or anything like that.

Luke Palumbo: That raised bed area doesn't have anything planted there, it is grass it grows green in the summer and spring and that fence line has grass there. The other side of the house after Stewart's, that left side, as you are looking at the house from the street there is also a four (4) or five (5) foot strip of grass there. Most of it is my side of the parking lot, Stewart's side.

Frank Scirocco: Before we go any further, do we have the notifications for the neighbors.

Gina Kenyon: Yes I have them all back.

Frank Scirocco: Richard Delaney?

Richard Delaney: I had a concern about the parking too, I didn't know if you were going to use the driveway so you are saying some of the tenants will be in the driveway.

Luke Palumbo: The basement residents and they will have two (2) cars each between the basement and the upstairs apartment so there will be four (4) in total, four (4) cars will almost be able to fit side by side, I don't know when you guys might of seen it but I check out the roof overlapping that sidewalk.

Richard Delaney: I saw it the end of last week.

Luke Palumbo: So the roof was probably gone by then, the grade will be brought up to the sidewalk and you will have from the foundation of the house to the fence and you can almost easily put four (4) cars right like that without having to back anyone in.

Richard Delaney: I pulled in, there were not any cars there when I pulled in and you did seem to be close to the street, but as you say it is angled a little better in the front.

Luke Palumbo: It is; it is doable while it is angled and maintained that way they can turn around before they have their car in the street.

Richard Delaney: This is a commercial zone, do you know of any multi-family residence nearby?

Luke Palumbo: I don't.

Richard Delaney: I have questions about the entrances to the two (2) new apartments, I saw you have a 1B and a 2A so how are you accommodating the entrances to the additional apartments.

Luke Palumbo: 1B is the side door down the left side of the building, $\frac{3}{4}$ of the way back is their front entrance, and they will have a basement escape as well as a secondary. The front apartment will be the front door that you were looking at by the mailboxes, 2A is the right side and then the new basement build will be as you go around to the bottom basement there is a four (4) foot man door currently and that will get cut out and full door will be installed.

Richard Delaney: So does each unit have its own entrance?

Luke Palumbo: Yes.

Richard Delaney: Right now the top apartment goes the whole way.

Luke Palumbo: Top apartment is the whole floor; it is three (3) bedrooms.

Richard Delaney: The two (2) new apartments will be one (1) bedroom.

Luke Palumbo: That is correct.

Richard Delaney: Have you noticed any buffering between the buildings, they are pretty close, you are right on Stewart's property and then the other building on the other side there is really no room.

Luke Palumbo: The other building, do you mean the property lines or the structures?

Richard Delaney: Well, the property line, you are pretty close there.

As far as green space, recreation space, I didn't notice the raised bed, where again did you say that was.

Luke Palumbo: As you go down the driveway where the house jogs in (showed Richard on the map)

Richard Delaney: I noticed the building permit was in the window on the left, so you are beginning to do some work?

Luke Palumbo: I started working the basement regarding the existing units that are there now. Electrical work has been started to separate everything, some carpentry work as well.

Richard Delaney: I guess that is all I have.

Frank Scirocco: Lyn I have a question, since most of our questions encompass both the special use permit criteria and the site plan review is there a need to do a special site plan review.

Attorney Lyn Murphy: No.

Frank Scirocco: Ok, thank you. Dan?

Dan O'Connor: I drive a four (4) door pickup truck and I drove down that driveway and had no issues at all turning around in there so that I didn't have to back out into Central Avenue. I have no issue at all.

Frank Scirocco: Edward?

Ed Morcone: I pulled in there today and I did not have any problems getting in or out of there.

Frank Scirocco: We are going to close this part of the hearing and open it up to the public; is there anyone here to speak either in favor or against this application, state your name, your address and you have 3 minutes.

Dave Hicks 241 First Avenue: Has it been address on the fire emergency exits on the building, that is the biggest thing I see on the whole thing he is crowding everything in, he says he is going in the basement so if there is an issue how is the exit going to be from the basement.

Frank Scirocco: Anyone else? We will close this part of the open hearing and would you like to address that.

Luke Palumbo: Yes, the basement has two (2) exits to the back of the apartment, the main entrance being the front of the basement apartment, the bedroom will have double hung windows which can act as an egress but also will have a laundry room door through the bedroom and there will be a secondary exit through the laundry room as well. The basement itself will have two (2) doors and window egress.

Frank Scirocco: Is Jim here? Does that need to be inspected by the fire inspector?

Jim Herkel: Yes, it is a multi-family three (3) unit so it will be inspected.

Frank Scirocco: Does anyone else have any other questions? Is there a motion to accept or deny this permit?

Dan O'Connor: Motion to accept.

Frank Scirocco:

Motion by: Dan O'Connor

Seconded by: Bob Chase

Bob Chase: Yes

Richard Delaney: Yes

Martin Doyle: Yes

Ed Morcone: Yes

Dan O'Connor: Yes

Frank Scirocco: Yes

Luke Palumbo: Thank you, you all have a good night.

Frank Scirocco: Next on the agenda are Jeff and David Gould to add two (2) additional apartments to an already established four (4) unit on 12 New York Avenue. Will you briefly tell us what you are going to do?

Jeff Gould: Sure, we want to add two (2) more apartments in the center, it is already a warehouse so there is not going to be any exterior work or any build-outs

it is all interior. We have two (2) parking spaces at the top of the building and to accommodate I think we need eighteen (18) feet per parking spot and we have roughly one hundred and seventy five (175) feet so that should give us enough parking spots per one bedroom units. It will give us nine (9).

Frank Scirocco: There is no layout for the parking that I see on the drawings.

Jeff Gould: It is on street parking.

Frank Scirocco: Basically the criteria for the special use is whether or not it is going to have a significant impact on the neighborhood, that is the question, that is what the Board has to look at. Martin?

Martin Doyle: Well, you answered my question; it is all on street parking. Rubbish garbage disposal, how will you handle that.

Jeff Gould: There is a sidewalk there so it sits on the sidewalk.

Martin Doyle: Maybe not so much where it sits, I think the City may have a concern when you go from four (4) units to six (6) units as to who pays for the collection.

Jeff Gould: We can pay for that, we own a couple of different places and you guys are the only ones we don't actually have to pay for garbage.

Martin Doyle: Are you going to put in a raised curb, I know you have a new sidewalk along that side but it is curb cut, it is wide, it is made for driving a vehicles in and out and the sidewalk is awful wide there and the street is kind of indented along that side, do you plan on putting in a raised curb.

Jeff Gould: We can if you want one.

Martin Doyle: I don't know that we can make it a requirement but it is something I guess would be nice if it was considered, something to protect people coming out the building because they are coming out right on the sidewalk next to the street.

Frank Scirocco: Let me say that my issues with on street parking, is when we have considerable amount of snowfall cars are lined up on the street and the City cannot clean the street because no one moves their cars and there is snow everywhere until it melts. That is the biggest issue I have for people that want to

add more apartments that don't parking spaces for the cars and the cars end up on the street and honestly we have too many cars on the street right now in my opinion. It is impossible in the winter to get out streets cleaned. That is just me. Bob?

Bob Chase: On the garbage, where did you plan on putting the barrels?

Jeff Gould: Right on the sidewalk.

Bob Chase: All week long?

Jeff Gould: They are supposed to pull them back to the building and put them back out for garbage day.

Bob Chase: Where are they the other six (6) days of the week?

Jeff Gould: Against the house I think.

Bob Chase: Visible from the street?

Jeff Gould: Yes

Bob Chase: You don't own any property in the back of the building?

Jeff Gould: I mean up top there is up by the road. If you are going up and the building is on the right we paved the top.

Bob Chase: No entrances from the back?

Jeff Gould: Nope just the windows in case there is a fire.

Bob Chase: What about on that center section?

Jeff Gould: In the drawings we are going to take the garage door down and put two (2) man doors and put two (2) windows in the rear.

Bob Chase: You have no greenspace.

Jeff Gould: Nope, that is how we bought it.

Bob Chase: I am set for right now.

Frank Scirocco: When did you buy this building?

Jeff Gould: Three (3) or four (4) years ago.

Frank Scirocco: Did you ever come before the Board for permission.

Jeff Gould: I filled out a building permit.

Frank Scirocco: So you got a building permit, I don't recall us ever hearing.

Jeff Gould: I mean in every other City you fill out the building permit and you are approved.

Frank Scirocco: No, I get it.

Jeff Gould: And here to, we were already approved and ready to build, we had all the approval, we stopped because of COVID all the prices of lumber went up so we were just kind of sitting around waiting to see if the prices would dip.

Frank Scirocco: So you were given a permit for the additional two (2) apartments.

Jeff Gould: Oh yeah it has already been approved.

Frank Scirocco: Your permit did expire.

Jeff Gould: It did, again we were waiting during COVID to see what was going to happen with the price of lumber and everything else.

Frank Scirocco: Normally anything like this would have to come before the Board before you were issued a building permit, but things happen. Dan?

Dan O'Connor: You said you were not going to do an exterior work on the building.

Jeff Gould: We are not adding any additions like that we are going to put the man doors where the garage door is now and put two (2) windows in the back but not adding, the footprint is not changing.

Dan O'Connor: Is this something that you have already started?

Jeff Gould: Not in the center, we cleaned it out.

Dan O'Connor: There looks like there has been work in there.

Jeff Gould: No there is no work, we took out, and previous owner left a bunch of wooden shelving we just took the dumpster filled it up and took them out. They left a bunch of weird stuff, again we were cleaning it out and getting it ready because we thought we could go get a building permit again and start it. We actually lost the people we were going to use because we did not realize we needed to do this.

Dan O'Connor: Greenspace and parking were my other two (2) questions; you don't have space to put greenspace up and then parking, I went by that last snowstorm and you could not pull especially if it is odd /even you cannot park there, it is crazy.

Frank Scirocco: Ed?

Ed Morcone: Everyone covered most of it already. Do you have tenants in the apartments now?

Jeff Gould: Yes.

Frank Scirocco: With the tenants you have now, how many cars are they parking?

Jeff Gould: I just got some new tenants; I think right now there are four (4).

Frank Scirocco: Richard?

Richard Delaney: I was also concerned about the lack of off street parking, the day I was there, last Friday there were no cars on the street. You also submitted a site plan application so I had questions based on that.

Frank Scirocco: Basically the special use permit encompasses everything.

Richard Delaney: I do have some questions about the different units. So what you call the address number 12 New York Avenue is the currently occupied

housing, you have an apartment downstairs and an apartment upstairs and they are two (2) bedroom apartments?

Jeff Gould: Those are, yes.

Richard Delaney: You want to do this in three (3) phases and phase one (1) is already completed, phase two (2) you want to put two (2) apartments.

Jeff Gould: Those are already done. We want to have four (1), one (1) bedroom apartments and we already have two (2).

Richard Delaney: Those are the ones labeled E & F?

Jeff Gould: Yeah, we had to do it for the fire department I believe.

Richard Delaney: So they are already constructed and occupied as well?

Jeff Gould: Everything is full except the center is a warehouse at this point.

Richard Delaney: Your plan for the phase three (3) in the center structure, so you would be going from two (2) apartments to six (6) ultimately?

Jeff Gould: Four (4) to six (6), we already have four (4) done.

Richard Delaney: For phase three (3) were you planning on eventually doing that or what was your time schedule for the middle.

Jeff Gould: We had already been approved to do the middle and then like I said with COVID the prices jumped with lumber and stuff.

Richard Delaney: It looks like you had plans that would dress up that middle building, what about the outside.

Jeff Gould: We were going to take the garage door out and put in two (2) man doors.

Richard Delaney: Would ultimately the building all merge together as far the appearances on the outside. Didn't I see a picture? So this would be your ultimate plan to kind of put a facing on this.

Jeff Gould: That is kind of what it looks like now, like I said the garage door would come out and the man door in.

Richard Delaney: I mean it looks like these are comparably sided.

Jeff Gould: Yes, I think the guy that had it before did a lot of work to it exterior wise.

Richard Delaney: It doesn't look like this now I thought this was your final plan.

Jeff Gould: No, it looks like that.

Dan O'Connor: That is what it looks like now.

Richard Delaney: I mean it is a different color then, the middle.

Jeff Gould: I mean it is gray, whatever he did looks a lot better than what Zillow had, and it looked awful before.

Richard Delaney: I also wondered about the strip of land in the back of your building, that is not yours?

Jeff Gould: I wish it was.

Richard Delaney: You have a picture of Figure 2 it is an aerial photo, it says an existing CMU wall continuous around the perimeter of the total structure, what is the need for that was.

Jeff Gould: We hired a professional architect with stamped plans and I am not an architect and we paid him to do that so I am not quite sure but it is up to code for Mechanicville.

Richard Delaney: Is the building up to code is there fire protection?

Jeff Gould: We have fire proof in the walls and ceilings for code.

Richard Delaney: That is all I have for now.

Frank Scirocco: Lyn, I have a question for you, the fact that a building permit was issued for this application without Board approval and then expired, should that have any bearing on.

City Attorney Lyn Murphy: Oddly enough it does not, there is some case law that has people getting building permits, construct a building, and then it is not in compliance and they are forced to take it down.

Frank Scirocco: Ok, is there any other questions?

Bob Chase: Yes, getting back to this far building to the left, what is in there?

Jeff Gould: Two (2) apartments.

Bob Chase: How do you get in and out of them?

Jeff Gould: There are two (2) doors.

Bob Chase: There is one (1) door.

Frank Scirocco: You are looking at the wrong drawing.

Dan O'Connor: So those two (2) doors are there now he wants to take the big center door out and do the same thing as the end building, put two (2) single man doors.

Jeff Gould: Correct.

Richard Delaney: I have another question, you mentioned you did some paving on the north end of the building and what did you say that was for, does it add to the property.

Jeff Gould: Well we did it two fold, the water was running down the hill from there and we wanted to curb it so it would come down and around the building and we paved it and people do park there now, I have parked there a couple of times, there are two (2) parking spots up there.

Richard Delaney: So that would be additional, a couple additional parking spots.

Jeff Gould: Yes.

Richard Delaney: The other houses on New York Avenue below your house do they have off street parking, do they have adequate parking do you know?

Jeff Gould: I think there is two (2), there is one across the street and they have parking and the guy next to us has parking.

Richard Delaney: Are they multi-unit?

Jeff Gould: I don't know.

Frank Scirocco: We are going to close this part of the hearing and open it up to the general; again state you name, your address and whether you are in favor of this application or against it and then you have 3 minutes.

Tom Mahoney: 30 Walnut, I just have a couple of questions.

Frank Scirocco: Address the Board with your questions.

Tom Mahoney: First is, the man got the building permit as he was supposed to, is there any kind of paper trail that says you can apply for a building permit without approval from planning/zoning?

Frank Scirocco: What happens is you apply for a building permit and you are either granted or denied, if it need site plan review then you are referred to the planning board for site plan review, if it needs an area variance or..

Tom Mahoney: Of course he did not know that, he just got the building permit.

Frank Scirocco: He was granted the building permit by mistake is all I can tell you.

Tom Mahoney: Of course it never had off street parking, and I have heard people consistently ask people when they have multi units how much parking you have, is it mandatory they have to have off street parking or can they have on street parking.

Frank Scirocco: Again, the code is pretty specific; it will not have an undo adverse effect on the neighborhood. So if you have a, let's say a five (5) unit apartment right now and you are parking eight (8) cars on the street and you want to add four (4) more apartments you could add up to thirteen (13) cars on the street

can the City handle that with the weather conditions we have been having. It is basically up to each member of this Board to decide what is good for the City and the City residents as well as the applicant. We have to weigh both sides.

Tom Mahoney: The only is I don't understand how he got a permit which is not fault of his own but never came in front of the Board.

Frank Scirocco: No I understand, we knew nothing about it until afterwards and I mean things do happen and people do make mistakes but the permit expired anyways.

Tom Mahoney: I am not against it, I just had questions, one thing just to point out and I don't know if you can factor this but there are four (4) side streets that lead up to Walnut from Saratoga Avenue and there is only one (1) now that is accessible for fire trucks. I don't know if you factor that in when you think about things, Boston, Pittsburgh, and now New York are not accessible for a fire truck when cars are parked on the street so you only have one (1) left I don't know if that is taken into consideration.

Frank Scirocco: It certainly is.

Tom Mahoney: Philadelphia is the only way up.

Frank Scirocco: Next.

Dave Santy 236 Saratoga Avenue my other side of my house is on New York so I am kind of across the street, great guys, never had a problem with anyone over there. Alleviating the parking, all they have to do is go up around the corner and park on the street where there are no houses, no one ever parking there. That is all they have to do there is plenty of parking on that other street. That is something that he can tell his people there that they can park up there. Same thing with the trash cans, that is all he has to do, kids play out there all the time, they are playing basketball in the street, most of the people I see going in there they don't have kids anyway and if they do they are too young to be playing outside, I am in favor for this and again the parking really is not an issue as long as people use that other street. I get it, everybody wants to park right in front of their house but they can park on the side of the building. Thank you.

Frank Scirocco: Anyone else?

John Santy, I reside with my son, I just have one (1) question, not necessarily to the gentleman's proposal, what is the statue with regards to the garbage bins staying on sidewalks for the whole week.

Frank Scirocco: Let's ask our Code Enforcement Officer.

Jim Herkel: It is actually in our City Charter, I believe only twelve (12) hours, I would have to look it up I am not sure of hand.

John Santy: Is that six (6) hours before and six (6) hours after?

Jim Herkel: I am not sure; I know it is in our Charter.

John Santy: With regards to the gentleman's proposal, up until three (3) or four (4) days ago after, the morning after the big blow, I am sure everyone remembers that, again I had to pick up trash, recyclables from one of the containers that was sitting in front of his structure and I picked them all up because they always seem to end up across the street and one of his tenants came along I said in rather uncertain terms the people that were her before you had the sense enough to move the garbage bins against the wall so when the wind came up it didn't scope them out and take off, since then, since the big blow, I will agree with him that those bins have been and I believe are right this very second against the wall. I guess I'd ask this gentleman would you kindly remind your tenants that you shouldn't be putting the bins all week long whether it is garbage or recyclables on what I thought what was a City sidewalk that prevents access, I walk my day twice or three (3) times a day basis and that there not right there on the edge of the road, that is all that I have and I thank you very much.

Frank Scirocco: Anyone else.

Kim Dunn 250 South Main Street, just to piggyback off what Tom was saying about three (3) of the streets are not accessible to firetrucks or maybe ambulances, how does that, I don't know if the question is whose responsibility it is, you don't know if someone just points it out to you obviously, so how is that kind of handled, this can be happening all over the place with people that are coming before you so how do you safeguard that because obviously seconds count in an emergency.

Frank Scirocco: That is a good question. How do we Jim?

Jim Herkel: Excuse me?

Frank Scirocco: In response to Kim, when there is no access to fire vehicles.

Jim Herkel: I honestly can't answer that question, I am not a firefighter, I don't drive a large truck down the street, I know on certain occasions on a busy street like Viall Avenue, Saratoga Avenue, if you have cars on both sides it is difficult to drive down with a normal vehicle regardless of the size of it, I honestly can't answer that.

Frank Scirocco: We will have to talk to Jeff Alonzo about that.

Kim Dunn: Well I guess it is more of a City thing, not just Jeff as the Fire Inspector because you guys are making decisions and if you are not aware of these situations, I am not for or against this applications I live somewhere else obviously, but is it a legal question for the City Attorney. It has got to be somewhere that it has to be in consideration for even it come before you guys because if you are not aware of it and you are granting something, not just this one but anything, that could be having on do stress on City resources obviously and could be putting people's lives at risk, so someone has to have an answer, not the fire department, it is not up to them to decide, you guys are making the decisions that could impact them, they are not aware of it so it seems like there is a disconnect somewhere.

Frank Scirocco: Well there is I mean the fire department especially Jeff would have a better insight into whether or not there is any issues upon any approval that we make especially... unfortunately the only applications that we have looked at were on main City streets and none of the off streets so we really never had to address this issue until now.

Kim Dunn: You are saying Jeff as Fire Inspector but...

Frank Scirocco: He would be the one I would go to.

Kim Dunn: Right but it these things are not reviewed by him, you are not asking for his input, how is he going to know.

Frank Scirocco: I would have to ask him for his input before we granted any permission.

Kim Dunn: Is that something you are going to incorporate going forward so that you don't potentially run into these situations.

Frank Scirocco: I think we may that is a good point, thank you; we really never considered that before, again we really never had an application that would require us to think about whether or not it is fire accessible.

Attorney Lyn Murphy: In other communities they refer the applications to Emergency Services before they make determinations so that they can hear any kind of input or concerns that are raised by Emergency Services themselves.

Frank Scirocco: The Board does not have to act on any application at the same meeting if they have other questions they are not sure of.

Tom Mahoney: For instance, the man wanted to turn Bucciero's into apartments, so the sake of argument if he had no off street parking but he had a lot of parking that had to be on the street, theoretically that could have been a factor with the Fire Department.

Frank Scirocco: That would arise in probably any situation in any City.

Tom Mahoney: I am just saying for the future, Philadelphia is the only open lane and there are other streets that might be a factor,

Frank Scirocco: I guess at the next meeting I will make sure someone from the Fire Department attends the meetings.

Richard Delaney: What if we make a stipulation if Jeff approves it; we do a temporary approval based on his judgement.

Frank Scirocco: I would rather have someone here testifying, is there anyone else here to speak in favor.

I have a presentation Andrea DiDomenico Attorney at Law and on behalf of the neighbors in the neighborhood, on behalf of Mike and Laurie Liberty who live on Walnut, we are filing our objections to this application and I present to you our reasons for doing that. My clients reside on Walnut Street within the 500 feet perimeter of this property that they are looking to renovate. As some of us hometown individuals will remember this building housed the old D'Amico bottling business, we stand for the proposition that this does not meet the criteria for a special use permit, I have also attached various photographs that have been taken by my clients since February as recent as this morning, I went by and took some pictures myself. They took pictures from Saturday's snowstorm and we

have identified the photographs as to what they relate to with regards to the neighborhood and the big concern and the big worry is the lack of off-street parking and based upon your code there is a requirement that you have off-street parking under section 200-30 – Required off-street parking space. There is nothing within the City Code that allow a property owner to count a City street parking as off-street parking, in fact if you look at your definition under your zoning code it talks about parking lots, and it talks about parking space. It says parking space is an off-street space available for the parking for one (1) motor vehicle and it has the dimensions for that parking space so we stand for the proposition that there is a requirement for proper off-street parking with regard to this project. The applicant wants to lead you to believe that on the north end of his property he has created two (2) parking spots and I bring to your attention in his application it is called figure 2 the aerial photo one of the board members talked about that photo and if you look at the photo he does identify the property boundary and it is done, he highlights it in very dark black and then you see the footprint of the buildings within that boundary, on the north end of that property you will see a very dark black area and that is the area he is referring to in fact that area is shown in our photographs that are attached to our objections. So when you look at his photograph it confirms that this blackened area is not even located within his property boundaries, it is not his property, it is owned by the City of Mechanicville. The admission based upon this submission of application submitted by Mr. Gould. A couple technicalities with his application, he has the incorrect name of the property owner, I did get a copy of the deed from the County Clerk's Office, so if you are to grant this application I suggest you make sure all of the names match up, he goes by Gould Bros. Rentals, LLC, not Gould Bros. Real Estate, LLC, technicality but it could make a difference and then also on his application for the zoning district where the property is located he is leading you to think this is in a multi-family town house residential zoned district and it is not it is located in a residential district. So, don't be misled by that application telling you that it is in a multi-family district because it is not. He also gives you, in his application, photographs figure 3 of rear building, that comes off the MLS listing if you google on Zillow his property address you will see the photographs that he has attached to the application because I did that myself. The rear of the building shows a lot of greenspace, that is not his property, that is also an admission in his application from the aerial view, so don't be misled by thinking there is greenspace from Mr. Gould to enlarge his property with regard to parking. I think what is very telling is when you look up photographs, I am sure every individual on the Board is familiar with this neighborhood, if you are not take a ride up there, the streets are very narrow, there is parking on both sides, the gentleman who spoke earlier, Mr. Santy I am assuming he lives at the house on the corner and in our pictures we do

show where there is a pickup truck which I believe would be owned by Mr. Santy and he seems to have a little cut off where he is taking up part of the sidewalk area alongside his house that faces New York Avenue and that is where he has parked his vehicle so you could call that off-street parking for himself but there is not sufficient amount of parking for this project. We also show in exhibit C these are photographs I downloaded off google off the MLS showing the condition of the property when it was put up for sale in 2018 and you will see the condition of what the property existed at that time, exhibit D is what I downloaded off of the website called image mate, image mate is a county wide assessment information , you will see what the building looked like before it was sold and the siding was put on it and you will also see the greenspace on the north end of the property. Exhibit E sets forth photographs of the neighborhood as I am sure many members of this Board are familiar with Route 67 also known as Saratoga Avenue you will see all single family residence there and two (2) family residences, the only multi-family residence that I know of within not even 500 feet of this property, it is more than 500 feet away is what I call the old Alturmura block, local people will remember the Alturmura family but they have a parking lot that adjoins there building so there is adequate parking there for those individuals. Exhibit E my client's residence is shown right there it is a gray sided house next to the yellow house and then also the part of E we show across from their house showing three (3) cars parked on Walnut Street presumably owned by those tenants that live in the two (2) family houses. So as you can see by our submissions there is significant concern with regard to parking, the house on the corner that is opposite this property, right at the corner of Walnut and New York, that is a two (2) family residence that we believe is owned by Mr. Gould's brother presumably it is two (2) family, presumably there are two (2) or four (4) cars, that is going to be taking up space also. We also do address the emergency vehicle issue as a part of our objections and we think that is a legitimate concern that should be explored as to whether or not there would be proper access up and down this property. I think in all respects, one other last thing is, you need consent of the Saratoga County Planning Department, which you don't have.

Gina Kenyon: We received the application after their meeting so it is there for their next meeting.

Attorney Andrea DiDomenico: I did confirm that today with Michael Valentine at the County Planning Department so even if you wanted to act on the application tonight you would not be able to until such time as the County Planning Department has responded. One last thing is, picking up on what our Chairman has stated; those two (2) building permits we issued improperly, legally my clients

have the right to request that those two (2) apartments be torn out. This gentleman should of come before this Board before those building permits were issued so two wrongs don't make a right and we are asking you to deny this application and preserve this neighborhood as it was existing. The D'Amico bottling plant was a pre-existing non-conforming use, so once it was abandoned for more than a year, whatever needed to be done with that property, if it wasn't going to be single or two (2) family needed to come before this Board to get approval and that did not occur. I am urging you to look at this very closely, consider the neighborhood, take a drive up there if you have not been up there in a while, and see for yourself exactly where people are parking, look at the north end of the property to see the blacktop area, they did a nice job blacktopping but it is not his property, it is owned by the City. In all due respect, we ask you deny the application and take into consideration our submissions this evening, thank you.

Frank Scirocco: Is there anyone else? Mr. Hicks.

Dave Hicks 241 First Avenue, I am going to address the same thing as I did with the first application, have the fire exits or emergency exits been addressed on this?

Frank Scirocco: No, honestly we haven't, but something that we will start considering. Thank you. Anyone else? I am going to close this part of the hearing and give it back to the Board. Dan?

Dan O'Connor: That would be something the building inspector wouldn't pass the building inspection if there wasn't enough egress for an apartment.

Frank Scirocco: We are talking about there would be fire access.

Dan O'Connor: Yes.

Attorney Lyn Murphy: Ways to leave the property, or for Fire Department to get there.

Frank Scirocco: I think what they are concerned about is if there are too many cars on the street there is no fire access.

Attorney Lyn Murphy: His question was about leaving the house.

Dave Hicks: Yes mine is about exiting the house.

Frank Scirocco: I am sorry, I don't hear as good as I used to.

Dan O'Connor: Kim, I am 100% with you with the firetrucks cause half of the streets you drive up right now you would not be able to get an ambulance down let alone a firetruck, what are they going to do now, it is too late, alternate parking, no parking one side.

Kim Dunn: I think it is a serious concern we do have City wide because the longer it takes them to get there the faster the fire spreads then you are putting the fire fighters in more danger than they should have been to begin with. I don't know who needs to...

Frank Scirocco: That is something we need address, we are getting away from the application right now. Ed?

Ed Morcone: I am trying to kind of put myself in his position to be honest with you; he had all the permits one way or another before. I am sure there is a cost in this.

Jeff Gould: We mortgaged the place so we could build the last two (2); we have been sitting paying interest not being able to do anything.

Ed Morcone: The problem with the vehicles getting all over the place, I think that is a City wide problem, come up to my house and see that. I guess that is it, I am thinking he got everything he needed to get to do this in the first place and now being thrown back here so...

Frank Scirocco: Martin?

Martin Doyle: I think with the fire access issue, you can have two (2) cars, one (1) parked on one side of the road and one (1) on the other and there is a fire access issue then. I think it is twenty (20) foot clear width but the problem they may create is how close people park to the corners to turn on the street, it may be a turn radius issue if you let people park too close to the corner whether it is on New York or Walnut which maybe a parking limitation issue which I don't know, we are not doing that, putting up signs saying you can't park this close to the end of the street or intersection to maintain that radius for the firetruck to make the turn but I think just going strictly on fire access up New York, there is a problem now and I am not sure additional cars along the length the street are going to make things worse as far as getting by other than more vehicles to move. I am not

saying that the fire access shouldn't be looked at but it should be looked at for the situation of two (2) vehicles each on one side of the street is less than the width required for fire access. If that is the case now then again it is a restricted parking issue, one side of the street or other or alternate on different days. Going to the on street parking to look at it or having onsite parking or public parking within a four hundred (400) foot walking distance whatever that piece turns out to be which is not on the street for the additional three (3) vehicles that may still be an issue but certainly going around the corner and on to Walnut that may be a problem for me also because of the radius that a firetruck would need to turn from one street to another.

Frank Scirocco: Bob?

Bob Chase: With all the problems that were brought up by the Attorney as far as the problems with the application, as far as the information she has provided, I think we should table this.

Attorney Lyn Murphy: You have to table it because you don't have the information back from the County yet.

Frank Scirocco: We can't act on this application tonight.

Bob Chase: But I think we should get all of the questions answered regardless of the paperwork that comes back from Ballston. There are a number of issues here.

Frank Scirocco: There will be another hearing.

Bob Chase: But, there are a number of issues here that are not right, the garbage, and access to the back of the building for fire fighters, no windows.

Jeff Gould: There are windows.

Bob Chase: There are not windows.

Frank Scirocco: We will address all of that once the County comes back.

Richard Delaney: I wouldn't want to act on this tonight which we are not going to but I also have a question for Lyn. Does the requirement for off street parking apply to newly constructed buildings? These really are modification of buildings that are there not brand new so as far as requirements for off street parking.

Attorney Lyn Murphy: It is a new application I'd have to look to give you an answer.

Richard Delaney: It is sort of a modified use of the building, I mean if it was a new build it would need off street parking.

Attorney Lyn Murphy: That is 100% correct as far pre-existing non-conforming and the wiggle room that you have based on it being pre-existing non-conforming one could argue any modification to the building cancels out its status to pre-existing non-conforming. So, once you change by adding more residences or expand the building size, which I understand he is not doing, probably loses the pre-existing non-conforming, what you are talking about, status but this is the first time I am hearing this as an issues so I obviously need to look at it.

Richard Delaney: I would also like to see the judgement by Jeff Alonzo, the Fire Inspector.

Frank Scirocco: I will make sure he is at the next meeting. Ed?

Ed Morcone: I think some of these issues we are talking about especially when you are talking about the fire lanes and emergency vehicle getting around I do live on Chestnut Street and you should try to get up and down Chestnut Street with an emergency vehicle. I think some of it has to go to City Council, we are not the ones that make that decision whether or not, we are not going to judge someone on an emergency vehicle being able to get up or down, and that would probably be the entire City. Actually that street is not that narrow compared to some others that I was definitely seen, I don't know if it is in our reign to judge that right away.

Frank Scirocco: Dan O'Connor

Dan O'Connor: I think everything has been said.

Frank Scirocco: With the amount of overwhelming evidence this Board has to review we are going to table this until we get our report back from the County.

Jeff Gould: Can I ask you a question, if it is strictly about the parking, adding the three (3) additional, we already have four (4) in, my brother across the street said we could put three (3) parking spots if we wanted to he has the greenspace, we

don't have to cut the curb, everything is there, he will sell us the land. That is off-street parking.

Frank Scirocco: Personally, my biggest issue is the parking but again, but again we will have to table this, bring whatever you can bring, letter of intent to purchase, or a letter of purchase that shows you have the property.

Jeff Gould: Well I am not going to purchase it unless we are approved obviously.

Frank Scirocco: Give us something to look at that shows you will have parking and if the Board decides to approve the application, approve it with the stipulations you do have adequate parking. Like I said, we have a lot of stuff to review before we go ahead and decide either way. We will also have the Fire Inspector here to testify.

Jeff Gould: He has seen the building.

Frank Scirocco: Need him for the record, Jim?

Jim Herkel: I do have one thing to say with regards to the permits that were issued I came on the job just over three (3) years ago; the previous building inspector issued Mr. Gould the permit.

Frank Scirocco: We know it wasn't you.

City Attorney Lyn Murphy: We probably should just table that discussion for now, you are aware of what the conditions are.

Frank Scirocco: So we are going to table this tonight and we will re-convene.

Attorney Andrea DiDomenico: Chairman, will you leave open the hearing in case the public would like to comment, we can do that.

City Attorney Lyn Murphy: I would encourage you to do that because if you close it...

Frank Scirocco: We are not going to close it; it will be a public hearing, notifications.

Attorney Andrea DoDomenico: Do we have a new date when you will hear it.

Frank Scirocco: I don't know when I am going to get the letter from the County.

Attorney Andrea DoDomenico: They have a meeting on Thursday, Mike Valentine told me.

Frank Scirocco: So if they me Thursday we should know Monday which is the 21st and you have to publish it.

City Attorney Lyn Murphy: You are going to re-notify of the new date and send certified.

Gina Kenyon: Why don't we wait to make sure we get the letter from the County on Monday?

Frank Scirocco: It will probably be April 5th or April 12th.

City Attorney Lyn Murphy: If the County has additional questions it may need to adjourn their determination and that could go to the end of April. I would wait until you hear from them.

Attorney Andrea DoDomenico: I would ask as a courtesy that someone notify me, Mrs. Kenyon, Mr. Scirocco, or Ms. Murphy would you notify me of the new date.

Frank Scirocco: We will, assuming the County gets back to us without adjourning we will be looking at the 5th or 12th of April. Thank you all and we will get to the next application.

Mayor Mike Butler: Can I say something before you begin, we had our first Traffic Safety Council meeting in about three (3) years like two (2) weeks ago, we are going to have another one in forty-five (45) to sixty (60) days. There is something on our website what we address, one of them is Maple Street is going to be parking on one (1) side because you can't drive up Maple Street with a firetruck, so as people have been bringing issues, I have heard a couple, and other members on the Board have so we are going to start addressing the corner signage to keep the cars back from the corner, Harris Avenue is one that has been difficult. I want you to know that if you have an issue like that as far as streets you can bring it to the Traffic Safety Council which is on the website.

Frank Scirocco: Thank you for sharing that Mayor. Next on the agenda is Michael Bucci for a use variance. Now I have some questions first. The application is calling for permission to park equipment on his property why did that require a use variance. Is there somewhere in the code that says you cannot park a commercial vehicle in a residential lot.

City Attorney Lyn Murphy: You cannot park more than one (1) and it is in the actual State Building Code, it may be in here as well.

Frank Scirocco: I could not find it so that is why I asked and that would require a use variance.

City Attorney Lyn Murphy: Correct because it is commercial use in a residential area and they run the business out of that house allegedly.

Frank Scirocco: That would require a use variance; Michael let me share something with you as soon as I find it and with the rest of the Board. I am sure you have read this but I want to get something clear with you, this is what the law requires for a use variance and the board needs to listen to this too. The applicant must demonstrate that it may not obtain an reasonable from any use of the property permitted under the applicable zoning code and the law requires a financial analysis of the costs and the degree of the monetary return that can be covered if the property is used as permitted under existing zoning regulations. It is called the dollars and cents proof, that is evidence that you need to provide to the Board for the first hurdle. Are you prepared tonight to do that?

Michael Bucci Sr: I read that several times and I do not understand.

Frank Scirocco: Basically what it means, you will get different explanations, is that you can't get a reasonable return on your investment of the property zoned the way it is. So the way that property is zoned right now you couldn't put a another house on it, let's just say, that you could sell or an apartment that you could rent to give you a reasonable return on that property and you need to prove that not only verbally but with hard evidence so the Board has something to back it up in the event that it grants you the variance and someone files an article 78 and it goes before a court and the judge say this Board just granted arbitrarily with no evidence in front of them, they will overturn it to send it back to the Board. Now Lyn am I correct?

City Attorney Lyn Murphy: Yes.

Frank Scirocco: Is there anything I should add to that, I mean that is the first hurdle.

City Attorney Lyn Murphy: That is the first hurdle and for a use variances unlike area variances you have to meet all the hurdles.

Frank Scirocco: The second being, I just want to make sure you are prepared for the hearing tonight that the use authorized by the variance won't alter the essential character of the neighborhood and then the third one is that the property is unique and unlike any other property in the surrounding neighborhood and the final and last one is that the hardship is not self-created. Now this is not something the Board could sway from you actually need to show evidence for all four (4) of these for a use variance. It is the most difficult variance you can obtain and it is done that way to protect the neighbors it is like wanting to put a restaurant in the middle of a neighborhood, that piece of property that you have. That could have a total adverse effect on the neighborhood but if you could prove that the property can't give you a reasonable return, it is severe hardship; the Board could grant it if it had the evidence to back it up. A lot of people come unprepared because they don't understand the criteria and that is why before we get started I just want to make sure you are ready for this hearing tonight, if not, we are going to meet again and if you need to talk to any members on how to prepare or what's actually needed we could be a little more clear but, if you are prepared to go ahead you know what the Board needs to grant or deny.

Mike Bucci Sr.: I came here with the intentions of just being at the mercy of this Board and my neighbors to just allow me to stay there.

Frank Scirocco: Let me try to explain it like this, even if you had fifteen (15) neighbors here and they all said this is a great thing, we like it, the Board couldn't act favorably unless you've showed what the law says you would have to show the Board. All you need is one (1) person to say wait a minute I am going to go to court and we would lose and it would come back to us and they would say do your job. The law says you need to have this, he didn't have this what are you doing. I mean we love you.

Mike Bucci Sr.: I didn't have a chance, I didn't have a prayer, why did you guys make me pay the \$70. Two (2) times I had to pay \$70 to send letters to my neighbors.

Frank Scirocco: You should have called me first I would have been happy to explain the criteria to you.

Mike Bucci Sr.: I think we go to court at the end of the month anyway.

City Attorney Lyn Murphy: What he is talking about is he was cited, the matter was adjourned, in of dismissal which means don't do it again and if six (6) months comes it is dismissed, keep the vehicles off the property and the vehicles are back on the property so that matter what returned to the calendar and we have scheduling order ten (10) day mail...

Frank Scirocco: Would you like to proceed or?

Mike Bucci Sr.: I would like to know what my neighbors think.

Frank Scirocco: We could do that I suppose, so you want to proceed with the hearing.

Mike Bucci Sr.: Yeah, yes I do.

Frank Scirocco: Show us what you have to show us your yield on a reasonable return.

Mike Bucci Sr.: I have nothing, I am at the mercy of this Board and my neighbors.

Frank Scirocco: Can you tell us why the variance won't alter the character of the neighborhood.

Mike Bucci Sr.: It has been there, nothing has changed since 2007.

Frank Scirocco: So there has been no change.

Mike Bucci Sr.: We have altered it because we have put a truck in Stillwater and the stump grinder in Stillwater, we relieved two (2) pieces of equipment, we sold the chip box that has been there for eleven (11) years two (2) weeks ago, and I don't know what else to do.

Frank Scirocco: This is difficult, you know that. Why is the property unique and unlike any of the other properties in your neighborhood?

Mike Bucci Sr.: It is a piece of property on Elizabeth Street and it is a piece of property on Seventh Street, it is a L lot.

Frank Scirocco: The last one which is usually the killer, did you purchase the property with the intent that is probably the wrong word, to use it commercially and therefore creating your own hardship.

Mike Bucci Sr.: I didn't have a particular business in mind, I have always had a business.

Frank Scirocco: I mean it wasn't purchased with the intent, knowing it was residential, to use commercially.

Mike Bucci Sr.: When I purchased that property there was nothing behind me, it was all woods behind me.

Frank Scirocco: I get it.

City Attorney Lyn Murphy: What year did you purchase the property.

Mike Bucci Sr.: '77

Frank Scirocco: Zoning came in in '64 I think, I looked maybe it would be non-conforming but you missed it by thirteen (13) years. So questions from the Board regarding the first hurdle, reasonable return. No one? How about character of the neighborhood? Awful quiet up here.

Bob Chase: What you are doing definitely affects the neighborhood, if you have industrial equipment in a residential zone, what about the re-sale value of the houses that surround you. How would you address that? How would you address the looks of the equipment parked at your house?

Mike Bucci Sr.: People have come in and purchased houses, they knew we were there, we have been there.

Bob Chase: How much did the previous owners lose by that property, I mean house are going \$80,000 and up, can anybody speak to that?

Frank Scirocco: No, actually you are speaking to the applicant right now.

Mike Bucci Sr.: Can you repeat the question.

Bob Chase: Say the house across the street is listed for \$100,000 because of your property, and commercial vehicles parked in a residential zone they can only get \$75,000.

Mike Bucci Sr.: You don't know that, someone just bought that house across the street across from our place, just a month ago. I don't want to hurt the neighborhood, I don't want to bring anyone's property values down. If I have to clean up my yard I will I already cleaned it up.

Bob Chase: We are not worried about what's happening today, what about twenty (20) years from now, if we grant you a variance it stays on that property forever, someone could build a gas station on it.

Frank Scirocco: Rather than keep beating this I guess we haven't met the first hurdle yet, which is one of the most important, I am going to close this part of the hearing and open it up to the public and we will get to it.

Bob Chase: Why don't you explain to him how he can meet it.

Frank Scirocco: Hold on.

Mike Bucci Sr.: That would be good.

Frank Scirocco: I am going to close this part of the hearing and open it to the public and then we will get back to it. Anyone here in favor of or opposition.

April Stewart, I live at 416 North Seventh, my husband and I purchased the former Mayor Higgins home it is directly next to where his lot is, where his truck is, where all the wood is, it looks like a junk yard. They clean it up for a very short period of time and it doesn't stay that way very long. The trucks are very loud, it shakes the house, I have a two (2) year old and one on the way, it makes me very nervous because last year prior to the last meeting we had for this there would be equipment running and no one would be there, it would just be running. I have a child, if I turn my head for one second and she ran off she could get hurt, there is no telling what could happen. I am sorry sir, I rarely see you, I see his son. The other day, for whatever reason, on the 8th, his son started the truck which is super loud, it was shaking my house, he left it running, nothing else was going on but it ran for over an hour, for nothing. There was a night he, his son, pulled up, it was

after ten (10) pm on a weeknight and he was throwing stuff in the back of his truck and his music was blasting so much you could hear it in the back of my home and he is parked out front. This is ongoing, we purchased our home to live in a residential area, we didn't realize what we were getting into when we moved in there. We want a place that is safe for our children, we just want what everyone wants when they buy a home and start a family. I understand he is a very nice gentleman, no offense, your son is not. It is very stressful to have to deal with this again, I have a high risk pregnancy right now and I don't need this stress and worry about having to come back and do this again.

Mike Bucci Sr.: I am sorry you are going through this.

April Stewart: I understand you are a nice guy and I don't want to make you feel bad but I do need to state this.

Frank Scirocco: Thank you, anyone else.

My name is Daniel I actually rent off of Keith and Craig Johnson at 415 North Seventh, we have been there now just over ten (10) years and I have actually been off for the last '20-21 battling cancer, I am good to go now, but I have known what has been going on across the street constantly. I have a seven (7) year old and a ten (10) year old daughters that are outside playing all the time and I have no disrespect towards Sr. but his son is the issue, his trucks will run, like she said the other night ten (10) o'clock at night, my girls rooms are right up front and the music blaring, he is out there fighting with someone I don't know who. Also, the second thing I had, what is the distant that you have to park a vehicle from a stop sign, I know you have to be a certain distance from a fire hydrant, from a stop sign and you can't park too close to a stop sign, when has his bucket truck there, I have gone up to him before, cars fly through there constantly, nobody ever stops because you can't see the stop sign. With two (2) girls, and they also have kids, and our neighbors have kids it is just a hazard, and there is wood all the time in the road and then stays cleaned up for two (2) and then it get cleaned up again for when stuff like this is going on but it is just, if it starts here it is just going to spread more and more.

Frank Scirocco: Next.

Paul Matey 418 North Seventh Avenue, everything this gentleman just said and I just put my house up for sale so I am out of here.

Frank Scirocco: I will close this part of the hearing, public hearing closed. For me the application was dead when it was without the evidence you needed to yield a reasonable return. I can't see the Board moving forward, I am just speaking for myself, the other two (2) or three (3), I think you may have gotten through a few of them but without the financial evidence, by law, I can't go forward. I am going to ask the rest of the Board if they have any other questions before we act on this application.

Richard Delaney: I don't have any questions but we have to listen to the concerns of the neighbors because of the character of the neighborhood, it is kind of a tricky case because historically you have had this business for quite a while, this last, the first time I have heard these concerns.

Frank Scirocco: Bob you had another question.

Bob Chase: No.

Frank Scirocco: Ed anything else.

Ed Morcone: There is an ongoing judgement now?

City Attorney Lyn Murphy: It is not a judgement, there is a case pending in the City.

Frank Scirocco: Anyone else.

Martin Doyle: The non-conformance issue as far as non-conforming and then the code in effect.

Frank Scirocco: The zoning came in effect in '64.

Martin Doyle: Right, then various amendments, but the part on his piece goes back to '64.

Frank Scirocco: '77.

Martin Doyle: Right and I am not even sure '77 is the right date because I am not sure you were processing when you purchased it. Something that I think Bob brought it up, does the non-conformance, the start date is 1977 or the property was

used as a commercial use prior to the time you bought it, the timing for the non-conforming, does it start on the date he purchased it.

City Attorney Lyn Murphy: This is his son's business who was not alive at that point in time so I am assuming it was not started at that point in time.

Martin Doyle: I thought he might have bought a property that was on a commercial business.

City Attorney Lyn Murphy: Once you change the nature of the business then you start over again.

Martin Doyle: That is what I thought but I wanted to make sure on that piece.

Mike Bucci Sr.: Not that it matters but as soon as we purchased on the City it was two (2) parcels, and we did something with the City and made it one (1) parcel, I want to say it is 50 x 100 on Seventh Street and 50 x 100 on Elizabeth which makes it we go 150 deep now.

Frank Scirocco: The zoning was always residential.

Mike Bucci Sr.: There was a trailer on that property.

Frank Scirocco: At one point it was non-conforming there probably prior to zoning which allowed it to stay, I think there is one by the railroad tracks, there is still a trailer there.

Martin Doyle: Then the second piece because I am not sure still that Mr. Bucci understands what that first question, to kind of postpone any decision until someone describes to him.

Frank Scirocco: I gave him the option.

Martin Doyle: I know you gave him the option but, one more time because I don't think...

Frank Scirocco: We don't have to act on the application if you feel like you want to give him more time to present the reasonable return evidence, I have no issue with that. That is up to the Board.

Martin Doyle: He has the problem with his lawsuit here but, not a lawsuit, I am sorry.

City Attorney Lyn Murphy: We can push that out but I just want to make sure everybody understands that standard says if there is no reasonable return, there is a residence on the house that he could sell for a reasonable return it doesn't say that you could make the most money off of it possible. It is based on the zoning and the existing uses can he make a reasonable return, he is saying his business can't survive because he doesn't have the money to store the stuff in other places. That is very different than the property was purchased and now he can't get a reasonable return off of it. If you wanted to see it he would get just what his neighbors would get as well, it is a reasonable return.

Martin Doyle: Right, and from my end his reasonable return is the difference between using it as a residential property or permitted under residential property and the way he has actually been using it. Reasonable substantial return realized using the property as a residential property.

Frank Scirocco: That is the way it is zoned. I am going to present that hard evidence to the Board, that is what the codes say.

Martin Doyle: I agree with that but, getting across the difference between how he is using it as a commercial property and how it is permitted to be used as a residential property.

Frank Scirocco: Normally I would say to an applicant, I would get a zoning attorney and that is generally when there is a use variance before any Board, they don't come on their own because they don't understand the actual law and what is needed, where a zoning attorney knows exactly what to present for evidence that the Board needs, that is what I would recommend.

Martin Doyle: And that is perfectly fine and my viewpoint and your outlook right here now...

Frank Scirocco: I mean I would like to satisfy both the neighbors and the applicant.

Martin Doyle: Sometimes they should be able to work something out but going after the noise ordinance or something else, I guess my proposal would be to

postpone a decision and give him one (1) more chance to come back and actually answer the questions.

Frank Scirocco: Okay, are you comfortable with that Mike, to come back at the next hearing to present.

Mike Bucci Sr.: Do I have to send out letter again.

Frank Scirocco: Yes, unfortunately everyone has to be notified.

Mike Bucci Sr.: I am not going to spend the \$70, I realize I don't have prayer, I don't have a leg to stand on, I am at the mercy of this Board and the mercy of my neighbors.

Frank Scirocco: We don't have any leeway.

Mike Bucci Sr.: I appreciate you hearing me out and this stressed me more than you in the past year, but this is like the least of my concerns right now, tomorrow is going to be the first time in 44 years I am not paying my taxes on time, I have to worry about paying Bove, paying my taxes, this is nothing. That is where I am at.

Frank Scirocco: There is nothing we can do so can I have a motion to deny the application.

Motion by: Bob Chase

Seconded by: Dan O'Connor

Frank Scirocco: When you vote please give me your reasons behind your vote.

Martin Doyle: I am going to go with vote to deny the application based on not having a dollar value associated with answering the first question of hardship.

Bob Chase: Same I vote no because he hasn't submitted any proof that he can obtain a reasonable return any other way than he is doing.

Richard Delaney: I guess I have to vote no, I mean I have been a customer of his and I know they do great work but I am going to have to vote no because of not submitting the complete information and then also being out of character in the neighborhood.

Ed Morcone: No, inability to prove the hardship.

Dan O'Connor: No, I love Mike as a guy but he can't get over the first hurdle of many and it is not something he has figured out yet.

Frank Scirocco: Mike I know your fifty (50) years and it kills me but legally I can't vote yes I have to vote no. The application is denied, sorry.

Frank Scirocco: Is there anything else before I ask for a motion to adjourn.
Motion to adjourn?

Motion by: Martin Doyle
Seconded by: Dan O'Connor

Meeting adjourned @ 8:46pm