

**ZONING BOARD OF APPEALS  
MONDAY, SEPTEMBER 22, 2014**

Members Present: Susan Marteney, Ed Darrow, Stephanie DeVito, Scott Kilmer

Absent: Mario Campanello, Deborah Calarco, Matthew Quill

Staff Present: Andy Fusco, Corporation Counsel; Brian Hicks, Code Enforcement

**APPLICATIONS APPROVED:** 42 Frances St., 77 Throop Ave, 217 Grant Ave Rue 21 Store

**APPLICATIONS TABLED:** 236 State St., 7 Catlin St.

**APPLICATIONS DENIED:** 56-58 Clark St.

Ed Darrow: Good evening. Welcome to the City of Auburn Zoning Board of Appeal. I'm board chairman, Edward Darrow. Tonight we will be hearing 56-58 Clark St. which has been pulled, 42 Frances St., 77 Throop Ave, 236 State St. and 7 Catlin St.

I would like everybody to know are normally a seven member board. I have three members notify me this morning that they will be unable to attend so when we call you up, if you wish to table or adjourn to our next regularly scheduled meeting please just let me know and we will do so.

Andy Fusco: In revisiting number two (on the agenda, 56-58 Clark St.), I wasn't here for the last meeting, Mr. Rossi had to cover in my stead, but absent it being pulled by the last time by the joint consent of the applicant and the board the 62 day period to decide has run so it is a defeat by default unless we consent. There's no unilateral right to withdraw or to pull to be able to extend the 62 days that the law gives us to decide on of these cases. The applicant has to come to get our consent. I don't see in the minutes where that happened the last time. I don't see that it happened this time either.

Ed Darrow: So you're saying that it was a, they did not pull it then as I was instructed. It was by...

Andy Fusco: I received no letter or phone call asking for permission to extend. Just so everyone understands, we have a 62 day limit to decide cases on a Zoning Board of Appeals under the laws of the State of New York. We can extend that if the applicant comes before us and says 'I need more time', and we consent or we say to the applicant 'We need more time' or 'We need more information'. And then the applicant consents. But there's just no unilateral right to adjourn or pull.

Ed Darrow: Did Counselor Rossi fill your chair in August or July?

Andy Fusco: You're right, it was July. And I don't recall this being on the August calendar.

Susan Marteney: They didn't show up.

Ed Darrow: I think if we reviewed the minute there was a scheduling conflict and they asked for an adjournment for one month. I was informed by Code Enforcement Officer Hicks that they requested that it be pulled. Am I correct on that, Mr. Hicks?

Brian Hicks: I was informed by their attorney, Joe Pettigrass, that they wanted their application pulled from the agenda and meeting this evening.

Andy Fusco: I would construe that to be a withdrawal and defeat by default.

Ed Darrow: That's exactly how I understand it as.

Andy Fusco: It's not like the Planning Board where if you don't mean the time limits it's an approval by default. It's exactly the opposite with the ZBA.

Ed Darrow: Okay, then. If it's a default he cannot reply unless there are no circumstances. That would be up to Counsel.

Andy Fusco: Let's cross that bridge when we come to it. That's the reason that time limits are set. Time to fish or cut bait. This is one that's been our calendar since spring, as I recall. And the people who came, the residents who came to testify against it the first time have never come back. I think that their interests wouldn't be served if it just continues to be adjourned and adjourned. And then it's dealt with on a night they don't happen to be here for whatever reason. I would ask to move to deny the variance.

Ed Darrow: The chair puts forth a motion that 56-58 Clark St., even though they have requested to be pulled, that the variance for said location is denied by default. All say 'aye'. Opposed? None. Let the record show that 56-58 Clark St. is denied.

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**56-58 Clark St. Use variance for an auto service station. (Adjourned from previous meeting.) Applicant: Joseph Calcagno.**

Andy Fusco: In revisiting number two (on the agenda, 56-58 Clark St.), I wasn't here for the last meeting, Mr. Rossi had to cover in my stead, but absent it being pulled by the last time by the joint consent of the applicant and the board the 62 day period to decide has run so it is a defeat by default unless we consent. There's no unilateral right to withdraw or to pull to be able to extend the 62 days that the law gives us to decide on of these cases. The applicant has to come to get our consent. I don't see in the minutes where that happened the last time. I don't see that it happened this time either.

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**42 Frances St. Area variance for front yard parking, extension of current parking area. Applicant: Stephen and Teresa Roof. (Adjourned from previous meeting.)**

Ed Darrow: 42 Frances St., please approach, give your name and address for the record and tell us what you'd like to do.

Stephen Roof, Valley Dr., Jordan, NY: We are requesting that existing parking be granted. Last month I submitted papers from the previous three owners going back approximately 30 years showing that they had used this area in front of the house as parking. When we purchased the house we purchased it assuming that was a legal use. We have tenants in there that use that parking and we feel it would be difficult to obtain and keep good tenants without that option of having parking at this location. They've used it consistently for 30 years at this location, it's

never been a problem in the past that I'm aware of. We'd just like to get approved to continue that use.

Ed Darrow: Counsel, is this the one you were going to research?

Andy Fusco: Yes, I sent an e-mail to everyone the next day, I know Sue got hers but perhaps others did not.

Ed Darrow: I just need to be refreshed.

Andy Fusco: This is a case where Mr. Roof was able to demonstrate that since 1984 that there had been front yard parking at this particular address so that the question before us as the last is whether this was grand-fathered in as a pre-existing non-conformity in advance of the 1992 code having been passed. As I indicated in my e-mails to the members I was able to research this and find that the prohibition on front yard parking dates back to at least 1964. I believe I informed Mr. Roof of that as well in my e-mails. So this is not grand-fathered as a pre-existing non-conformity. It is a situation where the various elements we consider for area variances will either prevail or fail. The fact that it's been used for front yard parking consistently since 1984 is maybe something you want to think about but none the less it has been illegal since 1984 and apparently now our Code Officers have caught up to it.

Ed Darrow: With that being said, Mr. Roof, and knowing that this is normally a seven member board and there are only four present, so one nay vote would defeat this and unless there is a substantial change in the application you would be prohibited from reapplying, do you wish to go forward or would you like to postpone to our next regularly scheduled meeting.

Stephen Roof: I think we can just go forward.

Ed Darrow: Okay, sir. Is there anything else you'd like to add that you didn't from last month being all these members were present last month?

Stephen Roof: I'd just like to reiterate that we purchased it understanding that, believing this was an acceptable use and as I say, this could create a financial hardship for us if this is changed based on getting good tenants and retaining them.

Ed Darrow: Are there any questions from board members?

Susan Marteney: I notice there are two front doors, the individual who would be designated for this parking space.

Stephen Roof: There are not two front doors. There's one on the side of the house and there's on in the front.

Susan Marteney: On the front porch, okay. This is on the north side, correct?

Stephen Roof: No, it's on the south side of the street.

Susan Marteney: I must have looked at the wrong house. But there was a parking space in front it, the one I looked at, there was one in the front yard.

Andy Fusco: That's next on their list.

Susan Marteney: Houses are so poorly numbered in this community, it's awful. So many houses don't have numbers and I was driving around in the rain.

Ed Darrow: Any other questions?

Scott Kilmer: Mr. Roof, when you put the new, if you get the variance, and you put the new driveway in, will you leave that part of the concrete walk or will that be coming and making it part of the new driveway? Right now you're cars are kind of parked part on the walk and part on loose, crushed stone.

Stephen Roof: No, the sidewalk won't be affected.

Scott Kilmer: That will stay?

Stephen Roof: Yes.

Ed Darrow: Any other questions?

You may be seated but we reserve the right to recall you.

Is there anyone else present wishing to speak for or against 42 Frances St? Seeing none, hearing none I shall close the public portion so we may discuss it amongst ourselves.

Thoughts? Concerns?

Scott Kilmer: Mr. Roof's residence isn't the only one that appears to have front yard parking on that street and I realize that's not necessarily a reason to go ahead and provide it but what he's parking on now is some loose crushed stone and it's not a huge variance. It will be technically front yard parking but it's not going to take up the entire part of the front of the house and it's going to look better if it's paved anyway and it gets a car off the street.

Ed Darrow: That's how I feel. It's not a large portion or large segment. Considering that is has been proven since 1984 even though the prohibition goes well back before that. You would have thought it would have been caught well before that. And the fact that he did buy the home believing that was legal. Any other thoughts?

Chair will entertain a motion.

Susan Marteney: I would make move to approve the area variance for Stephen Roof for the residence at 42 Frances St. because the applicant has proved the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighborhood or the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;

- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, do we have a second?

Stephanie DeVito: Second.

Ed Darrow: We have a second. Roll call please.

All members vote approval.

Ed Darrow: I feel that the variance is not substantial at all. Sir, your application has been approved. Please see Code Enforcement for any permit before beginning work.

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**77 Throop Ave. Area variance to construct detached garage. Applicant: Chad Axton.**

Ed Darrow: 77 Throop Ave, please approach, give your name and address for the record and tell us what you'd like to do.

Chad Axton: I'd like to build a detached garage.

Ed Darrow: You understand the variances that you need?

Chad Axton: Yes.

Ed Darrow: Okay. Your garage is 590 square feet over the allowed 750. That is quite sizeable. Explain why you need that much. That's a typical house, 1200 square feet.

Chad Axton: I have some sizable things to put in it. I have a sizable boat, a sizable truck and a sizable car that's going in it and that would make the neighborhood look better. And the yard will support the size of it.

Scott Kilmer: Mr. Chair, do you want to give Mr. Axton the opportunity to table?

Ed Darrow: Yes. You are aware this is seven member board? One no vote, I need it for the record, that you wish to proceed or not to proceed. If we go forward with one no vote, unless there's a substantial changed, you cannot reapply.

Chad Axton: Yeah, I wish to proceed.

Ed Darrow: May the record show that Chad Axton wishes to proceed with the application for 77 Throop Ave. He has been informed that there are only four members of the board and one no vote would result in a negative variance.

Questions from board members?

Scott Kilmer: Maybe it's in your application but I didn't see. The shed that's there now, will that be coming down when you put the new garage up?

Chad Axton: No.

Scott Kilmer: So you'd be having two external buildings then?

Chad Axton: Yes.

Susan Marteney: Is the edge of the new garage about where your clothes line is now?

Chad Axton: What do you mean by the edge? The front edge or the side edge?

Susan Marteney: The south side of the garage? Is that about where the clothes line is?

Chad Axton: Roughly. The front of it would be about where the clothes line. Where it would start. Probably a little bit past that clothes line.

Susan Marteney: Have you talked to your next door neighbor who owns the thicket or do you own that thicket to the north?

Chad Axton: No, that's actually his back yard, the house that's on Lake Ave.

Susan Marteney: All the way through?

Chad Axton: It goes all the way back. So it's pretty well shielded from any view. Both buildings are.

Ed Darrow: Mr. Hicks, would another variance be needed for the second accessory structure seeing as the first one is going to stay?

Brian Hicks: I took that structure into account for this one. He's allowed a shed and a garage with a total of 750 square feet so I totaled it up because there's nothing in his application that says it will be removed.

Ed Darrow: Okay, thank you.

Susan Marteney: On the map is the garage too close to the property line if the shed is only six feet from the property line and this looks like it's closer, on this map that you drew? It's a foot from the property line.

Chad Axton: That's one of the variances I was looking at, the nearness to the property line. The closer it can be to that property line the better. So you get in and out of the garage with the vehicles.

Susan Marteney: The only problem is that's not on your application.

Chad Axton: It's right here.

Susan Marteney: It's not hear.

Brian Hicks: That was his request.

Andy Fusco: In other words it's not before us and not advertised.

Chad Axton: I don't understand, it's written right here.

Susan Marteney: It's not listed in the reasons why you were denied an application to do a building permit.

Susan Marteney: Am I correct?

Chad Axton: Which number are you on?

Susan Marteney: It's on the denial page.

Brian Hicks: He would not have a copy of that, they're not sent that.

Susan Marteney: You only have three variances, one for accessory structure, one for the height and one for the maximum driveway, so you don't have one for how close you are to the property line on the north side. Am I correct?

Andy Fusco: Correct.

Susan Marteney: And we don't know what that distance is there.

Brian Hicks: We have a 30 x 40 building and the minimum for any garage set back from a property line is three feet. There's no way that you can maintain that side of the building by means of a ladder without three feet.

Susan Marteney: Okay, but we don't have that as one of the variances.

Brian Hicks: It's not a request for a variance as far as the City is concerned, and myself, because you need the three feet. Anything closer would put all the eave drop from snow and water onto the neighboring property and we cannot allow that. That's why I didn't put it in for a requested variance. Three feet would be the closest allowed.

Susan Marteney: Okay.

Scott Kilmer: So that would then affect the width of your accompanying driveway, correct?

Chad Axton: No. The driveway isn't there yet on that part where the garage will be so it can be anything it needs to be.

Scott Kilmer: We're approving the width of that driveway so we need to know what it's going to be.



Brian Hicks: The maximum allowed width for any residential driveway as 20 feet wide and right now, because of what he has roughed in with the binder coat, does show a 24 to 23 foot so that's why you see a variance for the four foot.

Scott Kilmer: That would stay the same?

Brian Hicks: Yeah, he would only be able to get to that. He wouldn't be able to get any closer to the property line.

Ed Darrow: So, Mr. Axton, just for clarification, is it your intention for your proposed garage to be three foot from the rear property line or were you planning on having it a foot from the property line?

Chad Axton: Three feet is okay but the closer I am to that property line the better so that's why I put that down. I can still do three feet.

Ed Darrow: You understand it has to be three feet?

Chad Axton: I do, I understand that.

Ed Darrow: That's what's important now.

Chad Axton: That's fine.

Ed Darrow: May the record show then that Mr. Axton that the rear property line set back has to be three feet from the garage.

Susan Marteney: It's not the rear.

Ed Darrow: The side, excuse me. The side property line.

Any other questions?

Sir, you may be seated but we reserve the right to recall you.

Susan Marteney: It will certainly be tucked behind the house, you will barely see and edge of it because he already has two bays and that will be round and it certainly isn't going to take up his back yard, he has a very large back yard still.

Ed Darrow: Is there anyone present wishing to speak for or against 77 Throop Ave? Seeing none, hearing none I shall close the public portion so we may discuss this amongst ourselves.

Thoughts?

Scott Kilmer: It's a big structure but as Sue said you're going to have to work to see it. You could go by there all the time and not even notice it's there.

Stephanie DeVito: I agree.

Ed Darrow: Any other discussions? If not the chair will entertain a motion.

Susan Marteney: I move to approve the area variance for Chad Axton of 77 Throop Ave, three area variances to construct a 30 x 40 x 20 garage; an area variance of 590 SF over the allowed maximum of 750 SF for accessory structures, an area variance of five feet over the maximum height allowed of 15 feet for an accessory structure and an area variance of four feet over the allowed maximum width of 20 feet for a driveway because the applicant has proved the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighborhood or the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, do we have a second?

Scott Kilmer: Second.

Ed Darrow: We have a second. Roll call please.

All members vote approval.

Ed Darrow: Sir, your variance has been approved. Please see Code Enforcement for any permits before starting work. Thank you.

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**236 State St. Use variance for conversion to two dwelling units. Applicant: Dominic Giacona**

Ed Darrow: 236 State St., please approach and give your name for the record.

Dominic Giacona: Gives name.

Ed Darrow: You understand this is a seven member board and there are only four members present. If there is one no vote your variance will fail and unless there is a substantial change you cannot reapply.

Dominic Giacona: I do understand. I just wanted to address a couple things as preliminary matters. Although I did submit this application at the beginning of August I did supplement the application approximately two weeks ago with a parking plan for this property and I wanted to ensure the board received that parking plan as part of the supplement to that application.

Andy Fusco: Mr. Giacona, one of the requirements under the law is compliance, in a use variance case, is compliance with the State Environmental Quality Review Act. I did not see in

the copy in my packet SEQR applications nor SEQR part one for either, I think you have two matters on tonight.

Dominic Giacona: We do, sir. I did speak with Mr. Hicks extensively about this and per our discussions I was told an area variance and a dwelling unit conversion application were the proper means to address this issue.

Andy Fusco: I've never disagreed with Mr. Hicks in my life except item five and item six show that you are asking for, for the case of 236 State St. is a use variance.

Dominic Giacona: No, I submitted an area variance. I have a copy of that application if the board would like to review it to be sure we have the same application submitted.

Andy Fusco: I'm going by what would have been notice to the public. My number five says this is a use variance case. My number six says it is a use variance case. I'm not disagreeing with you but this is a matter of proper notice to the public. If it's a use variance case there has to be SEQR compliance. If it's an area variance case we have a notice problem.

Dominic Giacona: Sir, we would have no problem pushing this off to the next meeting so the public would receive proper notice. I just want to ensure we..., you mentioned at the outset of this meeting that there's a 62 or 60 day rule. As long as we wouldn't be prejudice by that adjournment.

Andy Fusco: Exactly. And that's how this usually works, you come and ask for time or we ask you for time and it can go longer than the 62 days without prejudicing either side.

Dominic Giacona: As long as it's not chargeable to us.

Andy Fusco: As long as you're here it's fine.

Susan Marteney: When looking through this the authorization from Benji Thompson does say an area variance. It's the page that's the authorization from the current owner says it's an area variance that was notarized.

Dominic Giacona: I think it's clear...

Andy Fusco: Sam? Is he a relation?

Dominic Giacona: Yes.

Andy Fusco: He and I can talk tomorrow, try to figure this out.

Brian Hicks: I think it's actually very clear, with my discussion and with the information that's in the denial letter on the front, it's clearly a use variance application. Due to the fact this it's not an allowed use in that zone. We may have had the wrong application sent to Mr. Giacona's office. The application got filled out but it is definitely a use variance. Reading the head it does say area variance, they may have picked that aspect up and went along with it. It's clearly a use variance.

Andy Fusco: What about 7 Catlin?

Brian Hicks: 7 Catlin is a use variance also.

Andy Fusco: Okay. I have no SEQR on 7 Catlin either, sir.

Brian Hicks: We received that this evening.

Susan Marteney: It just came from Steve Selvek.

Ed Darrow: Okay.

Dominic Giacona: If I may, to address the board's remaining concerns...

Andy Fusco: Why is the applicant Dominic Giacona on 7 Catlin, isn't it Mr. Kosta?

Ed Darrow: He's there counsel.

Andy Fusco: My apologies.

Dominic Giacona: With those concerns addressed I respectfully ask for the board's direction here. I was told to submit an area variance, it seems I have to amend that to a use variance, is that the board's understanding?

Ed Darrow: It was advertised as a use variance so that's okay. All we need is a short form SEQR review for it.

Dominic Giacona: Would that be this form here?

Ed Darrow: Show that to Brian to see if it's the right one.

Brian Hicks: Mr. Fusco, my question is, this parking area behind the house at 236 State St., has been there for the longest time, probably over 45 years. There's a large barn behind the property and this addresses that. What happened with this structure was, with the fact that it was not being used one of the apartments, they lost that use. So now they are coming back to try to get that because the drawing will sustain that. The time went by and they lost it.

Andy Fusco: I read the application and Mr. Giacona alleges that between the time it was listed and the time it closed is when it became abandoned by the abandonment provision. I understand that. My point is if a use variance is in fact the remedy then there has to be compliance with SEQRA and I don't see any short form. If you google SEQR short form or SEQR EAF it'll come right up on your screen and you'll be able to fill it out yourself and get it to us.

Dominic Giacona: I can get you that.

Andy Fusco: It's very easy to fill out and if you, Sam and I get together tomorrow we'll be able to get it done. It is a single agency review, no other agencies will be involved beyond this board.

Ed Darrow: So we're going to adjourn until October 27<sup>th</sup> at which point you'll have a short form SEQR review and this is a use variance so that the record is right.

Dominic Giacona: Okay, I appreciate that.

Ed Darrow: Thank you very much.

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**7 Catlin St. Use variance for a parking lot. Applicant: Dominic Giacona.**

Ed Darrow: 7 Catlin St., please approach and tell us what you'd like to do.

Sam Giacona: I am here on behalf of John Gotsis who is also present.

Ed Darrow: As I'd like to inform you as I have all other applicants. We're a seven member board, only four are present tonight.

Andy Fusco: Mr. Chairman, all that's being asked for tonight in this case would be that we have no objection to the Planning Board being the lead agency for the SEQR review.

Sam Giacona: That's fine.

Andy Fusco: That's all that's being asked.

Ed Darrow: Then the rest of the matter...

Andy Fusco: What I assume will happen is that in a week so the Planning Board will neg dec it and you will come back next month for the granting or denial of the variances required here and then if the variance is granted by this board then approximately a month and a week from now you'd be going to the Planning Board for site plan approval.

Ed Darrow: The next meeting, Mr. Giacona, will be October 27<sup>th</sup> at seven p.m. I'll put forward for mutual consent that Planning Board becomes for lead agency for SEQR review for 7 Catlin St. All in favor? All. Opposed? No. Mutual consent we have, motion carried.

You're all set, sir, we'll see you on the 27<sup>th</sup>.

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**217 Grant Ave – Rue 21 store. Area variance for increase in size of previously approved signage.**

Any other business to come before this board?

Brian Hicks: Mr. Chair, last month we adjourned 217 Grant Ave, the Rue 21 store. I believe you should have those packets in your possession. I don't have it on the agenda but it was an adjourned item from last month.

Ed Darrow: The only problem is the 60 day because nobody was here for it. I yield to Counsel.

Andy Fusco: Which building is this?

Brian Hicks: 217 Grant Ave, the Auburn Plaza, the new clothing store out there known as Rue 21. We had a sign application for an area variance in front of the board last month.

Andy Fusco: Do you know why it's not on the agenda for tonight?

Brian Hicks: I do not.

Andy Fusco: I don't mind one adjournment as a matter of courtesy, that's what we did.

Brian Hicks: It's only one that I'm aware of Mr. Chair.

Ed Darrow: Then a no show, then last month.

Susan Marteney: The application says August 4<sup>th</sup>.

Brian Hicks: It came in August 4<sup>th</sup>. It made the August meeting and here it is September so it's only had the one.

Andy Fusco: So it was tabled for a no show?

Brian Hicks: Right.

Ed Darrow: As long as Counsel advises we can go forward we have no problem.

Andy Fusco: Has anybody been in contact with you since this application was received?

Brian Hicks: Mr. Razzanti was in contact with me the next morning after the last meeting and is present tonight for this meeting.

Andy Fusco: Okay. I understand, we have the applicant but we don't have it on the agenda.

Ed Darrow: We never had a public hearing, I didn't open a public hearing because no one was here. That's the month John covered.

Andy Fusco: May I have a moment with you, sir?

Because it would have been on the agenda from the previous meeting there has been some notice so I feel comfortable enough with us going forward tonight and deciding one way or the other.

Ed Darrow: Wonderful. Sir, as a formality, as simple as it is I'm still going to let you know that it's a seven member board, there are only four here. One no vote and there has to be a substantial change before you can reapply. Do you wish to go forward?

David Razzanti: Yes, please.

Ed Darrow: Let the record show that Metropolitan Signs wishes to go forward with the application for Auburn Plaza, 217 Grant Ave. Could you please give your name and address for the record and tell us what you'd like to do?

David Razzanti, Metropolitan Sign Co., Baldwinsville: Good evening Mr. Chairman and board members, I'm here this evening on behalf of Rue 21 in Auburn Plaza to increase the size, area variance of the existing signage. It was initially put forth as an application to the square foot limitation of which the town allows by an out of town company, I was not involved in any of this. After it was up the owner of the plaza, Mr. Wachs, looked at it and stated it didn't fit with the configuration of all the rest of the signs within the plaza and that I needed to do something. As I'm familiar with the City of Auburn here I am. We would like to increase the size, the square footage for the front of the building would be 151.33 SF give or take 0.33 SF of signage. That actually increases the size of the letters approximately 12 inches across the board. Right now as you view it it's very hard to read in comparison with the signs all the way around. I'm here this evening to ask for that area variance to increase the size on the front of the building.

Ed Darrow: Any questions from board members?

You may be seated but we reserve the right to recall you.

Is there anyone present wishing to speak for or against this application? Seeing none, hearing none I shall close the public portion so we may discuss this amongst ourselves.

It's pretty straight forward. Driving down Grant Ave you can see the difference.

Stephanie DeVito: It looks funny.

Susan Marteney: Proportionately it's way off. It looks funny, yeah.

Ed Darrow: Understanding how Michael Wachs is and how he wants everything uniform I can understand his problem with it.

Stephanie DeVito: It does look out of place.

Ed Darrow: He does keep everything nice. If there's no other discussion the chair will entertain a motion.

Susan Marteney: I move to approve the area variance for Metropolitan Signs for the Rue 21 store at the Auburn Plaza because the applicant has proved the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighborhood or the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, do we have a second?

Susan Marteney: I forgot to do this. The area variance is for 33.25 SF over the allowed maximum of 121 SF for a total of 154.55 SF of signage.

Scott Kilmer: Second.

Ed Darrow: We have a second. Roll call please.

All members vote approval.

Ed Darrow: I feel the variance is a very minimal request. Sir, your variance has been approved. Please see Code Enforcement for any permits before starting work. Thank you.

David Razzanti: Will wait 30 days before getting the permit in case anyone has any objections.

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Ed Darrow: Have all members had enough time to review the minutes for the June meeting? Do you feel comfortable adopting them or do you need more time reading them?

Any additions, corrections or deletions? Hearing none they stand approved.

Anything under housekeeping?

Andy Fusco: Yes, one thing. As you notice on this month for whatever reason, some of the notice provisions went out on Office of Corporation Counsel stationery with my name on it. That can't happen again. If there's ever an issue with notice I have to defend this board. I can't be the one doing the notices. So that can't stand, that can't ever happen again. We just had a notice problem in the last case. One of the corner stone rules of law is that you can't defend yourself. I didn't notice any of this until today that it went out over my name on my letterhead. I can guarantee you it's never going to happen again.

Ed Darrow: Anything else? Did you receive your packets in time for review? All state affirmative.

Motion to adjourn? So move by Scott Kilmer.

Meeting adjourned.

Recorded by Alicia McKeen