

**ZONING BOARD OF APPEALS
MONDAY, OCTOBER 27, 2014**

Members Present: Susan Marteney, Ed Darrow, Stephanie DeVito, Scott Kilmer, Mario Campanello, Deborah Calarco, Matthew Quill

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

APPLICATIONS APPROVED: 236 State St., 7 Catlin St., 54 Capitol St., 61 Perrine St.

APPLICATIONS TABLED: None.

APPLICATIONS DENIED: 9-11 Walnut 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 236 State St., 7 Catlin St., 9-11 Walnut St., 54 Capitol St., 61 Perrine St.

First order of business is the minutes from July. Have all members had the chance to review them? Any additions, corrections or deletions to the July minutes? Seeing none, hearing none they stand approved.

Have all members had the chance to review the minutes of the August meeting? Any additions, corrections or deletions to the August minutes? Seeing none, hearing none they stand approved.

Have all members had the chance to review the minutes of the September meeting? Any additions, corrections or deletions to the September minutes? Seeing none, hearing none they stand approved.

**236 State St. R1 zoning district. Use variance for conversion to two dwelling units.
Applicant: Dominic Giacona**

Ed Darrow: 236 State St. please approach. Tell us what you'd like to do.

Sam Giacona on behalf of the applicant: As set forth in the application my client purchased this, what used to be a two unit apartment house on State St. and between the time he signed the contract, by the time we closed it had become apparent that the non-conforming use lapsed in view of the fact that six months had passed since it had been used as a multi-family residence in an R1 district. The history of the property is set forth in the application and it actually had been a three unit. Based upon the square footage of the lot and the building and the ample parking, it certainly qualifies and then some for use as a multi-unit dwelling and I represent the buyer and he wants to convert it to a two-unit vs. a one-unit. I'm certainly willing to entertain any questions but the application is very comprehensive, my associate, Dominic Giacona, put it together and I think that it really speaks for itself.

Ed Darrow: Questions from the board members?

Scott Kilmer: I don't have a question so much as a statement. If Dominic put this together it's a very nice package, he did a nice job.

Sam Giacona: I'll be sure to tell him that. Thank you.

Ed Darrow: This is a use variance and I'm looking for a short form SEQR review.

Andy Fusco: We have the part one as part of the submittal.

Ed Darrow: I'm missing it then. (Andy Fusco gives Ed Darrow a copy of the SEQR)

Before we go any further would Counsel like to walk us through the short form assessment?

Andy Fusco: Yes, Mr. Chairman, I've had the opportunity to review it. I agree with all the answers in part one of the EAF. This is a single agency, unlisted action so there's no coordination of it required. I would have no objection whatsoever to a motion for a finding of a negative declaration.

Ed Darrow: The chair will entertain a motion for a negative declaration on the short form of the environmental assessment.

Scott Kilmer: So moved.

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

Mario Campanello: Second.

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

All members vote approval. Motion carried.

Ed Darrow: Being that we found a negative declaration of the SEQR review we can now move forward with the use variance. If there are any questions pertaining to the use variance and the requirements of what is needed for the use variance they may be posed now to the applicant's counsel.

Susan Marteney: A bit of clarification, I see that they bought the building June 13th of this year. Was it vacant before they bought it then?

Sam Giacona: Exactly. For at least six months prior. That's the time line.

Susan Marteney: That doesn't add up right then.

Sam Giacona: Right, absolutely.

Susan Marteney: I notice they continue to work on the interior of the house.

Sam Giacona: Yes.

Ed Darrow: Mr. Giacona, what would you say is the time frame at this point that this dwelling has been vacant?

Sam Giacona: That's a good question. It's never been totally vacant, however...

Ed Darrow: Excuse me, let me rephrase, since it's been occupied as a two-family.

Sam Giacona: I have no idea. But I know that it was at least six months prior to the purchase.

Ed Darrow: And the purchase was?

Sam Giacona: June of this year. I think it's spelled out in the application. At the time my client put in the purchase offer it was listed as a two-unit and between the time he put in the offer and we closed the multi-unit designation had lapsed.

Ed Darrow: And the city had it as a two-unit as well at the time of listing?

Sam Giacona: I believe so.

Susan Marteney: It was in May of 2014.

Sam Giacona: That is lapsed.

Susan Marteney: Yes, so you were in the process when it lapsed.

Sam Giacona: Exactly.

Ed Darrow: Any other questions from board members?

Deborah Calarco: When the property was actually purchased did you know it was lapsed?

Sam Giacona: As I indicated, we entered into the agreement in March or April of this year, in May the multi-unit designation lapsed and we re-negotiated with the seller and the purchase was in June of this year.

Ed Darrow: So Mr. Giacona, it's your testimony that in March it was a legal two-unit but by time you closed in June the six months had passed and it had reverted to a single?

Sam Giacona: Correct. I would like to point out that as set forth in the application there are a significant number of multi-units in that area.

Susan Marteney: In question ten the answers says the conversion happened in or about May 2014. And then they bought it in June.

Ed Darrow: Are there any other questions by board members? Mr. Giacona, you may be seated but we reserve the right to recall you.

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

It is a complete packet. They have everything in here that we could want.

Scott Kilmer: It was a three-unit, he's only asking for two. There's plenty of off-street parking, it looks well maintained. He's not asking for the world here. That's some crazy green paint though.

Susan Marteney: And they started negotiations believing it was...

Scott Kilmer: And it was less than a two month lapse, I think it was just caught in a technicality, I don't have a problem with hit.

Susan Marteney: Things take a long time when you're purchasing a building.

Ed Darrow: Any other discussion? The chair will entertain a motion.

Susan Marteney: I move to approve the use variance for a two-unit dwelling in an R1 single-family zoning district for property located at 236 State St. with applicant Dominic Giacona for owner Born Again Properties, Inc. because the applicant has proven the following four elements:

- The applicant has shown that he cannot otherwise realize a reasonable return on the property unless the use variance is granted and it has been shown by competent financial evidence.
- The hardship shown by the applicant is unique to the subject premises and not general to the neighbourhood.
- The use variance will not alter the character of the neighbourhood.
- The applicant's hardship is 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.

Deborah Calarco: While I am usually against this type of variance I believe the circumstances dictate approval and vote yes.

All members vote approval. Motion carried.

Ed Darrow: Mr. Giacona, your variance has been approved. Please make sure your client sees Code Enforcement for any proper permits before proceeding.

Sam Giacona: Thank you.

7 Catlin St. R1 zoning district. 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.

Michael Palmieri, architect for the project: The property is located at 7 Catlin St. The house was sold back in March and my client bought it in May. What we're seeking here tonight from the

board is to construct a parking lot of about 20 to 22 spaces. The existing parking at the existing restaurant is quite full and we're looking for additional space for employees and that type of nature that we can house. The site plan is in front of you, it's a preliminary sketch. There has been no engineering at this time. We're hoping to seek your approval tonight to go forth the Planning Board for complete design.

Ed Darrow: Mr. Giacona, do you have anything to add?

Samuel Giacona: Just briefly. In addition to what has been submitted my client has also circulated a petition among various residents on Catlin St. who are in favor of this application and I have copies.

Ed Darrow: I do need one for the record, sir.

(Copies of petition circulated)

Samuel Giacona: As many of you know Kosta's is a very busy place and very well attended breakfast, lunch, dinner and evenings and part of the problem is that there is not a lot of off street parking to accommodate the overflow from the parking lot. In the event this project goes through, and we're hopeful for that, it would alleviate a lot of that on street parking by patrons of Kosta's. This petition, as you will see, contains the support of many people on Catlin St. and certainly many people that don't reside by it but that frequent the restaurant and can't find parking so they are in favor of it. In addition I have a letter dated October 6, 2014 from Debbie VanDyke who resides at 3 Catlin St. and she is totally in favor of this project that's right next door. (Distributes copies of letter). Based upon the facts set forth in the application and the presentation by Kosta's architect we would ask that the board grant this use variance in respect to 7 Catlin St. Thank you.

Ed Darrow: Members, any questions?

Scott Kilmer: I do have a question. Last month when I went by there was a 'Do Not Park' sign in front of 20 Catlin by order of the police. Was that from an overflow problem from people parking on the street anyway?

Ed Darrow: No, the city was doing road work. They had the road torn up and there were two squares of asphalt removed.

Any other questions, members?

Scott Kilmer: How many parking spaces currently, around the building?

Michael Palmieri: About 54 and I believe we're under the requirement. I think the requirement is about 70. At one period of time we came in front of the board a few years back for some work we were proposing and that's where the calculations came from. So we're undersized as it is. That's just the way it was designed.

Scott Kilmer: What's the occupancy limit?

Michael Palmieri: Of the building itself? I don't have that information.

John Gotsis: 189

Ed Darrow: Any other questions for the attorney or the architect?

Deborah Calarco: Concerning the letter from Debbie VanDyke there are specific requests as to contingencies on being approved or her being in favor of this.

Ed Darrow: I'll be calling for others after.

Deborah Calarco: I'm just wondering if this is something to be addressed overall.

Ed Darrow: Any other questions for these gentlemen? Gentlemen, you may be seated but I reserve the right to recall you.

Is there anyone else present wishing to speak for or against this application?

Please give your name and address for the record.

Debbie VanDyke, Catlin St.: I did write that letter. I am in full support as is my mother, Connie, the upstairs neighbor.

Ed Darrow: Did you have a question, Ms. Calarco.

Deborah Calarco: Yes, you had specific requests in this letter. I am wondering what the condition is if they don't follow through on that.

Debbie VanDyke: I believe John will. I truly trust John and his word.

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

Thoughts? Concerns?

Susan Marteney: No, but as I'm looking at the property when Debbie mentioned something about a tree not being cut down it doesn't appear the tree is on John's property.

Debbie VanDyke: It's on mine.

Susan Marteney: It's on your property. Why would he cut a tree on your property?

Debbie VanDyke: Mentions overhanging limbs.

Ed Darrow: Discussion? It's much needed if you go up there during Thursday, Friday, Saturday; get the cars off the road.

Scott Kilmer: It has a lot of neighborhood support. That's important.

Ed Darrow: Any other discussion? The chair will entertain a motion.

Susan Marteney: Do we have to do the SEQR?

Andy Fusco: For benefit of the record this was a coordinated review between the Zoning Board and the Planning Board. As you will recall a month ago this board deferred to the Planning Board to do the SEQR and that has been given a negative declaration and there is a letter to that effect in the files. We're ready to proceed.

Ed Darrow: I put forth for unanimous consent that we accept the negative declaration.

Andy Fusco: You don't have to do that because you've already deferred to them.

Ed Darrow: So move on to the motion.

Susan Marteney: I move to approve the use variance submitted by applicant Dominic Giacona for John Gotsis at the property of 7 Catlin St. for the use variance to create a commercial parking lot in an R1 zone which is not an allowed use because the applicant has proven the following four elements:

- The applicant has shown that he cannot otherwise realize a reasonable return on the property unless the use variance is granted and it has been shown by competent financial evidence.
- The hardship shown by the applicant is unique to the subject premises and not general to the neighbourhood.
- The use variance will not alter the character of the neighbourhood.
- The applicant's hardship is not self-created.

Ed Darrow: The chair has a motion, do we have a second?

Scott Kilmer: Second.

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

All members vote approval. Motion carried.

Ed Darrow: Gentlemen, your variance has been approved. Please see Code Enforcement and finish your work with Planning before any further plans are made.

9-11 Walnut St. C1 zoning district. Use and area variances for conversion from three dwelling units to four dwelling units. Applicant: Michael Gordon

Ed Darrow: 9-11 Walnut St., please approach and tell us what you'd like to do.

Joe Pettigrass: I'm here for the applicant, Mr. Michael Gordon. We have before the board both an area variance and a use variance in regards to it. The property is a mixed use in a C1 zone and the one space that we're looking to convert is the commercial space that's on the property and we're seeking to convert it to a residential space.

As indicated in Mr. Gordon's application he's had a considerable problem renting the commercial space located at 9 Walnut. He has owned the property about four years and it's our belief and I would also refer to the report that was done by Mr. Gariglia from Area East Appraisal Consultants, but in regards to being able to rent out the space, due to the size of the space and the location it's not really amenable for renting out in Auburn for a commercial space. It's difficult. It's approximately 400 to 470 square feet depending upon you taking into account the bathroom and the closet space. Either way as far as commercial space here in the city of Auburn it is a small space limiting it to essentially service type businesses which, as Mr. Gariglia pointed out, you typically see more in a mall setting. This space isn't large enough to really accommodate those types of commercial businesses.

In addition to that just the location of the property as far as foot traffic for those types of businesses has made it very difficult for him to rent out. It's my understanding that the only tenant he's had in the four years since he's owned it was a church who did rent it out for a short time period. I don't know how many board members actually stopped by to see the inside of the space but they actually had 30 to 35 folding chairs in that very small space that they were trying to use for Sunday service. Obviously it was not very conducive to them. Besides that Mr. Gordon has been unable to rent it out. It would be our opinion that it's much better used as a residential space. When they did have that one commercial tenant there briefly I can only imagine that it had to greatly increase the parking problem down there.

In Mr. Gordon's application we're actually seeking to try to improve the area, to improve the neighborhood by not using this as a commercial space, to use it as a residential space. We also believe it would improve the overall safety of the neighborhood by not having an empty commercial space sitting there. It would be our belief that with a single individual, as we're talking about a one bedroom efficiency, Mr. Gordon has a senior citizen who's looking to rent it out as his tenant. I can't imagine any sort of family setting, it's just much too small an apartment. He's gearing it as a one-bedroom, efficiency with only a couple steps up and for more of a senior citizen, elderly type of clientele.

I hope the board was able to receive some of the supplemental information I provided. I would have preferred to have had a bit more time to have it as one packet but as I indicated Mr. Gordon was speaking to a senior citizen hoping to rent the spot so we wanted to get before the board to possibly retain this person as a potential tenant.

There are in addition some area variances that we would also be seeing. One is the lot size variance. The other is the apartment size, which once again is a very small variance that we're actually looking for. As I understand it's a 420 square feet requirement for a one bedroom. We have 400 if you don't take into account the bathroom and the close. The bathroom is currently five by six and that's 30 feet and the closet is 13 x 14. If you were to take those into consideration it's actually 470 square feet.

Mr. Gordon would also be asking a variance on parking spaces however I would point out a couple things. We did submit a letter from Kinney Drugs who are in agreement and have allowed Mr. Gordon the use of four of their parking spaces which is directly across the street from the subject premises at 9-11 Walnut St. In contrast to that if the space stayed as a commercial space I think it's a worse situation as far as parking is concerned. If this conversion is to be allowed we're literally talking about a one-bedroom efficiency. At most we're talking about one person with one car. In the majority of the time we're not expecting even that. I know Mr. Gordon

was in discussions with a senior citizen who has no car but I do understand the requirements for parking spaces.

In addition in regards to the use variance we did supply some financial information through Mr. Gariglia and I tried to supplement it for what his current investment is in the property and the market value of it. I would say that based upon the last four years based upon the current existing use as a commercial space this property, and I don't expect this to change unless there's some significant change in the overall economic market conditions in Auburn for this type of small commercial space, I would expect a very high vacancy rate for Mr. Gordon such as he's already had.

I hope I've hit on some of the points that are already in the application. If I can answer anything else I'd be more than happy to.

Ed Darrow: Any questions from board members?

Matt Quill: Mr. Pettigrass, how long was the church in there and how long has it been vacant?

Joe Pettigrass: I believe they moved out a couple months ago. I'm not sure of the exact time period however my guess from talking to Mr. Gordon about it would be three or four months that they were in there.

Like I said, that was the one commercial tenant he's had and I would think just as far as the neighborhood, as far as congestion and traffic and everything else to have all these people down there...it wasn't a very good situation but believe it or not that was actually a permitted use for that space. Mr. Gordon would like to improve the property and thereby hopefully improve the neighborhood as well.

Ed Darrow: Any other questions?

Scott Kilmer: Mr. Pettigrass, the other three units are presently rented out?

Joe Pettigrass: That is correct.

Ed Darrow: Is that it for questions? Mr. Pettigrass, you may be seated but we reserve the right to recall you.

Is there anyone else present wishing to speak for or against 9-11 Walnut St.? Please come forward. Give your name and address for the record please.

Marsha Smith, Chestnut St.: I am against having them convert that unit be another apartment. I've lived around the corner on Chestnut St. for 19 years and it is just an absolutely disgusting neighborhood. To see what's on the same side of the street. There's a few homes between Hoffman and Walnut and there's a few homes that need to be torn down. There's one on the corner of Walnut that is also three apartments and it looks like a junk yard, it is so disgusting. There's no room for children for play. There's no room for children on the corner of Hoffman St. to play. Those people hang out on the stoop, as you would say.

Ed Darrow: I want to understand you completely, are you saying Mr. Gordon's are poor tenants for Mr. Gordon is a bad landlord? Or are you talking about the neighborhood in general?

Marsha Smith: I'm talking about the neighborhood in general. What I'm saying is that I don't want to see anymore apartments be added to these places already. There's nowhere for those people to sit out on their porch, there's no back yard. There's no place. You already have three families in there and you're going to add another family or another person? Where are they supposed to...and I mean as for the parking across at Kinney's? That is a horrible corner. I drive up and down there all the time. People don't stop there. You have to watch out for the children and everything. When you're talking about the Sunday school that was going on there, the church services, they had a van there that I had to swerve around into the other lane to get by.

Ed Darrow: Ma'am, did you say they had a band there?

Marsha Smith: Van. A church van there on Sunday letting the members out and everything. That is so narrow there, it is so dangerous. To go ahead and allow somebody else to live there I just find it totally unacceptable. I realize maybe it's a commercial space, I remember when the barber was there, maybe make an apartment bigger or something but there's really no place for people to really live there. It's too outside the building, there's no yard, there's no nothing for them.

Ed Darrow: You think it's better served then as another barber shop, hair salon but definitely not a one bedroom apartment?

Marsha Smith: I don't really think it's good for commercial use. The building next to it heading toward S. Fulton, they had a business there and it was absolutely horrible. I'm glad that they changed it back to apartments and they're keeping it up and you don't have all these people hanging around and stuff. What Mr. Gordon needs to do, I really don't know, I don't think it's good for another apartment. I don't think there's enough room for another person to be in there. 400 square feet is not a lot of room. People need places to park. The people who are there now I don't know if they even own cars, I see taxi cabs a lot there, but there's no back yard there for those people to actually have a place to go outside and enjoy the summers and things like that. What I'm getting at is that whole side of Walnut St. is deteriorating horrible. Nothing is being done about the homes right next to me. It's just absolutely terrible nothing is getting done about it. I don't know Mr. Gordon but there's so many landlords that just are not around when you want them and they don't take care of their properties and it deteriorates. And that's the way I look at Walnut St. between Hoffman and Chestnut. It's falling apart.

Ed Darrow: Thank you for your input. Is there anyone else present, please come forward, sir, give your name and address for the record.

Ronal Tunney, Walnut St.: I oppose. Basically I inspected the property today and I notice there are four meters already on the house and they seem to be active. I'm not sure why they need four if it's only a three unit. Around this house besides the grass between the sidewalk and road there's a spot on Hoffman St. approximately ten feet by ten feet. There's no green area. In the front of the house, there's two front doors and there's a trash container between the two front doors where they simply dump the trash. There's no grass in front, just sidewalk and concrete. If children were to get in there the only place to play is on the sidewalk next to the road, not a good idea. Between the two front doors the people upstairs store their bicycles hooked up to the front rails so no one steals it. Doesn't look good but needed in the area. Again, lack of green

space on the west side of the house, there is a neighbor who has converted a vacant lot into a parking lot for their apartments, for their tenants. 9-11 has a one car garage and they're asking for four units and they have a one car garage. I talked about the trash bin in the front, doesn't look good. Parking is certainly going to be a problem. The house already looks full. When I go by there in the summer the front door is open, people are sitting on the front steps smoking, having a coffee. There's no place else for them to go if they want to be outside. The idea that someone has children there and right on the corner and no green space at all for them, go in the road, chasing a ball or whatever, not a good idea. I am definitely opposed to this being converted from a three-unit to a four-unit. My estimate it should be nothing more than a two-unit.

Ed Darrow: Is there anyone else present wishing to speak for or against this application?

Counselor, do you have any rebuttal.

Joe Pettigrass: I would just point out that the reason why there is four meters is because there are four space there, three residential and one commercial. In regards to, I'm also aware there's a little, I wouldn't call it a trash receptacle, it's a little box, bin, in front there and I did mention something to Mr. Gordon about it and apparently it did have a top to it where you wouldn't be able to see that there's trash in it because it doesn't look like a trash container but apparently it's been vandalized and someone has ripped the top off. I've mentioned that to Mr. Gordon and apparently one of the tenants put it in there and he said he would try to see if could financially help out the tenant and get a new receptacle. It was not the intent that even be there, he was just trying to help out the tenant living up front.

As far as traffic, I actually think the traffic and parking situation would improve if we're allowed to do the change because otherwise Mr. Gordon is forced to try to seek out continued commercial tenant. The only tenants he has coming forward are like the church he's not left any alternatives, that's not what he wants. He'd like to get someone in there who would be good for the neighborhood. Again, his current plan would be to put a senior citizen in there who doesn't even have a car. I would only think that would increase the safety of the neighborhood by having someone live there and hopefully prevent any future vandalism. A tenant would make it look more presentable.

Ed Darrow: Thank you, Counselor. I'm going to close the public portion so we can discuss this amongst ourselves.

Thought? Concerns?

Susan Marteney: I had a difficulty when I looked at the house, or building, trying to decide from the front which piece was going to be converted and because there was no floor plan it's really difficult to understand what's going to happen there and it appears still that, if you're facing the building, to the right hand side it still looks very much commercial in terms of the door itself and the windows. Yet on the left hand side it looks commercial too because it has a full door. It's not a house kind of door. I'm having a problem understanding the conversion because there were no drawings for me to be able to understand that.

Ed Darrow: I thought it to be the left.

Scott Kilmer: Is that correct, Mr. Pettigrass? If you're looking at the building it's the left hand side?

Joe Pettigrass: That is correct. It is the far left hand side. I discussed part of that with Mr. Gordon also. He was hoping people would go in. He had marked on the floor with some tape.

Susan Marteney: I'm sorry, how would we know that we could go in?

Joe Pettigrass: In my cover letter.

Susan Marteney: Oh, I'm sorry.

Joe Pettigrass: I was hoping it was given to the board, we had put in there that there was access to the space. The space is really a big open rectangular space. In the far back there is a bathroom and a closet to the right. Otherwise it's just completely open space. Mr. Gordon would propose in the rear of the space where the bathroom is he wants to push back the wall a few feet to install a shower and have a full bathroom and the install an additional wall to mark out a bedroom. Against one existing wall would be a galley style kitchen. This is a very small space but in regards to residential units in the city as far as one-bedroom efficiencies these are the size spaces that people typically rent out. There are a lot of senior citizens that are not looking for a lot of space. They are for these one-bedroom efficiencies where they have their full bathroom, they have a bedroom, a kitchen and a small living space. It would be no different than some of the other efficiencies that are around town. I point out in regards when you look at the front of the property on the right hand side there is a door to the far right that is one of the other tenant's door and it is a glass door and I was asking Mr. Gordon about that and he told me that that tenant prefers that door. He wanted to replace it but they simply wanted it painted to make it opaque but that's what they prefer. He was just trying to accommodate that particular tenant. I found it a little unusual.

Susan Marteney: It's unsettling for a home situation to have a door like that.

Joe Pettigrass: I agree with you and I had that very conversation with Mr. Gordon standing two feet away from the door. I don't understand it. He simply said the tenant asked if he would leave it there for them so he did. If the board was in agreement I would be more than happy to share these concerns with Mr. Gordon and see if some changes could be made.

Susan Marteney: My apology I didn't see the invitation to go inside. We're never invited in. Never before have we been invited into anybody's home.

Joe Pettigrass: Not only that he actually dropped off one of the kitchen cabinets he'd like to put in so if someone stopped they'd see the type of material he was using. He has renovated other properties in the city and takes some pride in the renovations that he's done.

Susan Marteney: I did see that, I looked in the window.

Matt Quill: In my opinion the board and the city has worked hard over the past 10 to 15 years not to keep splitting up homes into smaller homes. I am familiar with the property, I've been inside the property although not in the past one to two years. What the neighbors spoke of, in my opinion, is right. You're just asking for one more person to inhabit that space and even if it's

a senior citizen and they have no children everyone needs green space, everyone needs outside space. I understand the lack of efficiencies in the city of Auburn but to me it's just going to create more of a problem. That's my opinion.

Deborah Calarco: I have the same concerns. Someone asked something very similar a couple months ago. Granted parking seems to be a little less of a problem here but again even less green space than the other one offered. I'm not in favor of putting in more multi-families. I know the intentions are well, I get that and yes it's commercial, it's not necessarily the greatest in the world either and this might be a better use of facility but you're offering nothing else there. They're not offering parking, they're not offering green space.

Scott Kilmer: An issue that might come up down the road is right now there isn't a parking problem with Kinney but what if Kinney moves out or if there's bad blood between Kinney and Mr. Gordon, something happens down the road that we can't foresee. So even though at this minute the parking isn't an issue it could certainly become one later on. The other thing, the area variance itself is pretty substantial. I realize efficiency apartments are small but the numbers are there for a reason, it's a guideline to go by.

Matt Quill: I'm not trying to tell Mr. Gordon his business but if he has to remodel the interior anyway maybe he'd be better off served remodeling into another one or two bedrooms for the existing apartments and charging a higher rent.

Ed Darrow: Any other discussion?

Andy Fusco: Regarding SEQR. The three area variances that are before us with this application are what are called type 2 and exempt from SEQR. The one use variance request is an unlisted action so we do have to make a SEQR finding. You have the EAF part 1 in front of you. There is arguably one answer that is incomplete. Question 5b asks whether this is in conformity with our Comprehensive Plan. It's left blank. As Ms. Calarco has alluded to earlier this evening there is language in our Comprehensive Plan taking a dim view of these types of conversions. That notwithstanding I would have no objection to making a finding of a negative declaration so that we could move to the merits.

In addition to the comments of the various members regarding one of the three area variances are 75% which you may or may not find as substantial. The use variance requires the showing of financial data showing the lack of reasonable return. Here we have Mr. Gordon's basis as \$35,000.00 plus some unspecified amount of improvements that he's made, he doesn't say exactly what they are. But I don't see a demonstration in here that with three residential tenants he's not realizing a reasonable return on his investment. Whether his basis is in fact \$35,000.00 plus improvements or the \$93,000.00 which would be his assessed value, assuming the improvements from 35 to 93 are borne out by whatever his expenses have been over the years.

Those are observations I make in addition to the SEQR observation that I ask you to consider. Again, for the reasons I stated at the outset, I have no objection to a negative declaration resolution on SEQR so you can move to the merits of each of the four variance requests before you. And Sue, you're going to need to make four specific resolutions, one for each of the four variances requested. Three area and one use.

Ed Darrow: First the chair would like to entertain a motion for a negative declaration for the SEQR for 9-11 Walnut St.

Scott Kilmer: So moved.

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

Mario Campanello: Second.

Ed Darrow: We have a second. Roll call please. Let the record show we have a negative declaration for SEQR for 9-11 Walnut St.

Next we should move on to the use variance. Any discussion on the use variance before we entertain a motion?

Susan Marteney: Building on what Andy said, since there is no financial evidence...

Andy Fusco: There is financial evidence it's up to you to determine whether it's complete enough to meet the standards that are part of your motion.

Susan Marteney: From Mr. Gariglia.

Andy Fusco: There is financial evidence from Mr. Gordon regarding his purchase price. I don't see financial evidence on what these people are paying rent.

Ed Darrow: He's said what he's put in but we don't know what he's getting out.

Susan Marteney: Right. So that would be lack of financial...okay.

Ed Darrow: It may satisfy some but not others.

Susan Marteney: I move to approve the use variance for Michael Gordon at 9-11 Walnut because the applicant has proven the following four elements:

- The applicant has shown that he cannot otherwise realize a reasonable return on the property unless the use variance is granted and it has been shown by competent financial evidence.
- The hardship shown by the applicant is unique to the subject premises and not general to the neighbourhood.
- The use variance will not alter the character of the neighbourhood.
- The applicant's hardship is not self-created.

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

Deborah Calarco: Second.

Ed Darrow: We have a motion and a second. Roll call. Please explain your votes please.

Susan Marteney: I must vote no as the applicant has not shown competent financial evidence and I do believe it will alter the character of the neighborhood and due to the City's

Comprehensive Plan and the plan of lowering population densities in neighborhoods, I believe this will increase it and go against the Comprehensive Plan.

Matt Quill: I vote no and I can't sum it up any better than Susan just did.

Mario Campanello: No, for the same reasons.

Deborah Calarco: No, same reasons.

Stephanie DeVito: No, also for the same reasons.

Scott Kilmer: No, same reasons.

Ed Darrow: No, mostly because of lack of competent financial hardship.

The use variance has failed.

The chair will now entertain motions for the area variances for 9-11 Walnut St. We'll go in order.

Susan Marteney: And you want each one separately?

Ed Darrow: Yes, we need to.

Susan Marteney: Okay. I move to approve the area variance for Michael Gordon at 9-11 Walnut St. for an area variance of 8,957 square feet of the required 12,000 square feet in lot size because the applicant has proven the following five elements:

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

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

Mario Campanello: Second.

Ed Darrow: We have a second for the area variance. Roll call please.

Susan Marteney: I must vote no because I do believe it will produce an undesirable change or detriment to the character of the neighborhood. While the property itself is small and there's nothing he can do about that I still believe it will have an adverse impact on the physical conditions of the neighborhood.

Matt Quill: I vote no and I concur with Ms. Marteney's reasons.

Mario Campanello, Deborah Calarco and Stephanie DeVito: No.

Scott Kilmer: No. I have concerns about the congestion and the character of the neighborhood. I believe the area variance is substantial and I believe that parking may become an issue at some point.

Ed Darrow: No. I feel the area variance is way too large being at almost 75% of the lot size.

First area variance has failed.

Chair will entertain a motion for area variance number two.

Susan Marteney: I move to approve the area variance for Michael Gordon at 9-11 Walnut St. for an area variance of 20 square feet of the required 420 square feet for the apartment size because the applicant has proven the following five elements:

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

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

Scott Kilmer: Second.

Ed Darrow: Roll call please.

Susan Marteney: I also vote no on this because I do believe the area variance is indeed substantial and will produce an adverse impact on the physical conditions of the neighborhood.

Matt Quill, Mario Campanello, Deborah Calarco and Stephanie DeVito: No.

Scott Kilmer: No for the same reasons I voted no on the first area variance.

Ed Darrow: Yes. I feel 20 square feet is not asking for too much of a 420 square foot apartment size.

Chair will entertain a motion for area variance number three.

Susan Marteney: I move to approve the area variance for Michael Gordon at 9-11 Walnut St. for an area variance of four parking spaces of the required five parking space for off-street parking because the applicant has proven the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighbourhood or the properties in the neighbourhood.
- The benefit sought cannot be attained by a method other than an area variance.
- The area variance is not substantial.
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighbourhood.

- The applicant's difficulty was not self-created.

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

Scott Kilmer: Second.

Ed Darrow: We have a second. Roll call please for area variance number three.

Susan Marteney: I must vote no on this particularly because the variance is indeed substantial, four out of five parking spaces, and while he does have a letter of acknowledgement that Kinney drugs will allow people to park there that could change in the future quite easily and quickly.

Matt Quill, Mario Campanello, Deborah Calarco and Stephanie DeVito: No.

Scott Kilmer: No. I believe parking could easily become an issue in the future.

Ed Darrow: No for the exact same reasons as Ms. Marteney.

Area variance three has failed.

Mr. Pettigrass, your use variance and three area variances have failed.

Joe Pettigrass: I'll let Mr. Gordon know.

Ed Darrow: Thank you, sir.

54 Capitol St. (merged parcel fka 45 Perry St.) R1 zoning district. Area variances for shed on Perry St. side. Applicant: Dana Hassan.

Ed Darrow: 54 Capitol St., please approach, give your name and address for the record and tell us what you'd like to do.

Dana Hasan: Homeowner of 54 Capitol St. and what used to be 45 Perry St. which has recently been merged. I'd like an area variance to add some additional storage on my property. I have an existing structure that's approximately 140 square feet. Its primary use since I've moved in has been for the storage of a registered motor vehicle. Recent changes have forced me to need more storage area for household items and such. It's my understanding that my existing structure is not large enough to be considered a garage although it's kind of used that way, therefore I don't meet the required combined accessory structure square footage of 750 square feet. Therefore I'm applying for a variance to exceed 150 square feet allowed for sheds, I guess. On another note, my future intentions are to eventually tear down the existing structure I have now at the end of the driveway and hopefully in about three years put up a larger, more appropriate size garage or what would be considered a garage.

Ed Darrow: Any questions from board members?

Scott Kilmer: I have a question, Mr. Hasan. Is the structure already there?

Dana Hasan: The structure is already there. I did mistakenly start building the structure without a building permit because when I researched the city of Auburn code I came across section 125-64 which said any building under 144 square foot used for accessory use storage was exempt from the building permit process. I have that section if you'd like. It was my mistake, I should have gone to the building inspector before starting anything, I was just smart enough to get myself in trouble.

Andy Fusco: As a matter of law, self-created hardship is not an automatic bar in an area variance case. It's a consideration but not a bar as it would be in a use variance case.

Susan Marteney: Just for my edification, when was something still on that lot on Perry St.?

Dana Hasan: The last time there was a building there was approximately there three or four years ago. There was a house there that had caught fire and burned. It sat unused for about a year when I purchased it in 2012.

Deborah Calarco: Questions that the properties have merged.

Dana Hasan: Yes.

Ed Darrow: Any other questions? You may be seated, sir, but we reserve the right to recall you.

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

Thoughts?

Scott Kilmer: I think if the math is correct there's a total square footage of the two separate buildings of still less than what he could have if he had a garage and a separate shed. It's there now and I know it's not a reason to approve it but it doesn't look too bad.

Susan Marteney: There's certainly a lot of open space around.

Ed Darrow: He's looking for 118 square feet.

Any other questions? No? Chair will entertain a motion.

Susan Marteney: I move to approve the area variance for Dana Hasan at 54 Capitol St. for an area variance for one shed for the allowance of two sheds on the property as only one shed is allowed and an area variance of 118 square feet in excess of the allowed 150 square feet because the applicant has proven the following five elements:

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

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

Stephanie DeVito: Second.

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

All members vote approval. Motion carried.

Ed Darrow: Congratulations sir, your variance has been approved. Please see Code Enforcement before doing any more work.

61 Perrine St. R1 zoning district. Area variance for storage building on back of lot.

Ed Darrow: 61 Perrine St. Please give your name and address for the record.

John Lombardo: Representing 61 Perrine St. along with my brother Lucien Lombardo. Quite simply we'd like to build a storage building on the back part of our property. My brother has worked very closely with the zoning office in filling out the application and I think we hit all the points and explained our situation over the last three years and why we need this storage shed.

Ed Darrow: Could you explain to the board why you need the storage shed?

John Lombardo: My brother, Lu, moved back to Auburn about three years ago and he had lived in Norfolk, VA for the better part of 37 – 40 years teaching. He's decided to move back to Auburn and he moved back to the family house which I have been in my whole life, 63 years. When my mother died I had six, if you believe it, giant size dumpsters full of stuff I got out of the house and my brother has moved back. We also own the property next door at 59 Perrine St. Two and a half years ago we were trying to build a storage shed on that property and we had everything in place, we were going to pour the cement and someone from the city came running down with a stop work order because my brother Mike, who had passed away, his name was still on that deed and it was different than the deed on 61 Perrine St. so we couldn't merge the properties. We spent the last two and one-half, close to three years, trying to get my brother's children to agree to give up their part of 59 Perrine St. so we could build a shed. That hasn't happened, they're very hostile for some reason and we just haven't been able to get it done. As fate would have it I was going to put a new fence around the garden and one day I came home from work and pulled the old fence out and a friend of mine came over and suggested I put the storage area on 61 Perrine St. where the garden was as it would fit perfect. There had been a fence there my whole life but I thought that might work. We discussed it, we had John Thurston come over and we made a plan which is outlined in our proposal. In addition my brother is living in the upstairs and I live downstairs and he has a little like pathway to get through all his belongings and he still has $\frac{3}{4}$ of a house full of stuff in Norfolk he hasn't been able to move back. We're just looking to make our house more livable, I guess, we just need some more storage. After having taken six dumpstersful out of the house we're filled up again.

Ed Darrow: Questions?

Mario Campanello: The storage building itself is going to be used for his personal property that he has?

John Lombardo: Yes, for his stuff that he has in the house right now plus he wants to sell his house in Virginia but he has no place to put the property he has in Virginia. Plus I have 40 some years of artwork built up in a couple rooms upstairs that he isn't able to use. We're also going to put that in the storage area.

Mario Campanello: Thank you.

Ed Darrow: Any other questions?

Susan Marteney: As I peeked through the stockade fence it looks as though you still mow and maintain what be considered the lawn in the other space.

John Lombardo: The lot next door? Yeah, we own both. We've combined them.

Susan Marteney: Sort of you've combined it.

John Lombardo: We haven't been able to combine them because of my...

Susan Marteney: But you still maintain it. The children allow you to maintain it.

John Lombardo: Yes. The children pay nothing. We've been paying taxes and upkeep and everything since my brother died 20 something years ago. They just don't want anything to do with it. Well, I don't know what they want. That's another story.

Ed Darrow: Any other questions? You may be seated, sir, but we reserve the right to recall you.

Is there anyone else present wishing to speak for or against 61 Perrine St.? Seeing none, hearing none I shall close the public portion so we may discuss it amongst ourselves.

Thoughts?

Scott Kilmer: I have a question for Brian. The 10% of the volume is that based on the square footage of the home that sits on there now?

Brian Hicks: Correct.

Scott Kilmer: So that 17,000 and some change, so that would allow him 1,000 and so forth? Okay.

Ed Darrow: Thought? Concerns? Everybody is okay? If so the chair will entertain a motion.

Susan Marteney: I have one question. Are you going to have pull up doors or man doors?

John Lombardo: One eight foot overhead door and one man door next to it.

Ed Darrow: Chair will entertain a motion.

Susan Marteney: Do I need to break it down?

Ed Darrow: No, you can do them both at once.

Susan Marteney: I move to approve the area variance for Lucien and John Lombardo at 61 Perrine St. for an area variance of 200 square feet over the maximum allowed 750 square feet for accessory structures and an area variance of 3,081 square feet over the allowed 10% of the volume of the principle structure; storage building equaling 4,800 volume, principle structure (house) equaling 17,192 volume, because the applicant has proven the following five elements:

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

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

Stephanie DeVito: Second.

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

All members vote approval. Motion carried.

Ed Darrow: Sir, both your variances have been approved. Please see Code Enforcement for any permits before beginning any work.

Ed Darrow: Are there any other matters, any housekeeping? No?

Andy Fusco: I commend everybody for talking into the mics.

Ed Darrow: We're adjourned until next month. Happy Halloween.

Meeting adjourned.

Recorded by Alicia McKeen