

ZONING BOARD OF APPEALS  
Town of Lewiston 1375 Ridge Road  
Lewiston, New York 14092  
Thursday – June 8, 2023  
**ZB-06-2023 (A)**

**Agenda: LMK Realty Associates- Ridge Road (A), Dillard- Ridge Road (B), Adamson- E. Eddy Drive (C), Ackley- Ridgeview Avenue (D), Casal- Dana Drive (E), VMC Group- Model City Road (F)**

Present: Conti, Heuck, Maggard, Warnick

Absent: Machelor

Presiding: Joseph Conti, Chairman

Pledge of Allegiance

**A motion to approve the minutes of May 11, 2023, was made by Heuck, seconded by Warnick All in favor AYE opposed none motion carried.**

Conti: If you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to deny or grant requests to vary the Town of Lewiston Code, hence a variance request to allow or disallow a project brought to us because it cannot be built or performed as presented without a hearing to determine whether upon presentation of the details of the request the Board will grant a variance to continue the project or denial to prohibit a project as presented. Today's first case variance is with LMK Realty Associates it is for a property 101.12-1-20 is someone here to speak on this? Come to the microphone state your name and address.

Nick Massaro: LMK Realty and I am her with Sean Hopkins representing us from Hopkins Sorgi & McCarthy PLLC

Sean Hopkins: And also, Domonic Massaro to as well. We have a couple things we need to set up and we actually do have one handout. So, I would note we have 3 handouts. One is a copy of the relevant section of the zoning code, is it ok if I approach

Conti: Sure

Hopkins: One is a aerial photograph of the project site. And I will just hand them one by one. And then the final one is your vision map pulled from the adopted Town of Lewiston comprehensive plan. So, there is 3 there should be enough. And we will refence them where appropriate. So good evening my name Sean Hopkins on behalf of the applicant LMK Realty. We are here this evening in connection with a single requested area variance for a proposed multi-family project on the parcel located at 691 Ridge Road. We did provide you with an aerial

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photograph that shows you the location of the project site. I am sure basically everyone in the room is also familiar just to acclimate everyone. Turn quickly to a copy of the survey. Of course, being Ridge Road and then North Ridge Drive and the parcel we are discussing this evening is this rectangle does not pertain to the remainder of this property. And the only thing I want to note relative to the total graphic survey which was prepared by Millard, MacKay & Delles as you can see the site does have quite slope approximately 20 feet from front to back as measured from the right a way. With the application we submitted a copy of the site plan prepared by Silvestri Architects which is shown on that drawing. And basically, the site itself is approximately .78 acres in size it is zoned business districts pursuant to the Town's official zoning map. And what we are proposing there is 4 story building consisting of 20 units along with related site improvements and by that, I mean we will have 40 parking spaces we will have lighting we will have landscaping we will have storm water management most of those details of course get worked out by other municipal boards here in the Town of Lewiston. This site has been owned by the LMK realty family for since approximately 1979 so obviously it's been sitting there for many, many decades. It is important to note that, that zoning classification does allow multi-family even though it's called business district subject to the issue of the special use permit. There are 2 criteria's set forth in the zoning code for that special use permit which would be done by a different board. And they pertain to lighting and parking and I do want to note for the record we are completely comfortable that we can satisfy each of those criteria but that would be a future decision. Why we're here this evening is only one aspect of this project is we are requesting side yard setback from the west for the 4-story building. Just to acclimate everyone directly to the west is the entrance for the Robert Moses Parkway. That's drive heading south and there is approximately 105 feet between our property line and the edge of pavement of that ramp, so 105 feet from here to the edge of the pavement. The variance has absolutely no impact on any other properties what so ever. We are not seeking to be closer to any residential properties or the multi-family properties controlled by the applicant in the back. It's also important to note that if you look at the zoning code and I have handed you a copy of article 10 which is entitled business district it does set forth a whole bunch of other criteria design standards that apply. In terms of front yard building setback rear yard building setback maximum lot coverage minimum lot width ect ect. We meet all those other standards so we deliberately designed this project in order to minimize the relief that's requested from the zoning board of appeals. So specifically, that area variance that we are requiring from the edge of the right a way of the Robert Moses Parkway is as follows: We're required to have a setback of 42 feet. Where did we come up with 42 feet. 42 feet pursuant to the zoning code is required because it's based on building height. So, the height of our building I'll show you the elevation here. Is 42 feet it is important to note that if you actually look at the zoning code certain aspects of that are precluded from the definition of building height. Building height is defined in section 360-98 of the zoning code to exclude roof top equipment not intended for human occupancy so the building as determined by Silvestri Architects a reputable architectural firm in Western New York is 42 feet. So, the required set back is 42 feet. What we're showing as measured to right away is 20 feet. So, this dimension from here to the property line and

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there's another 105 feet is 20 feet. So approximately 125 feet from the edge of the right away for the Robert Moses Parkway.

Conti: That other 100 feet has nothing to do with it. We're concerned about the 20 feet. So really that other 100-foot means nothing.

Hopkins: Well, it does because it in to play with respect to the criteria whether any harm will result in that

Conti: But it's still not your property so that's still

Hopkins: I will explain that obviously the board is all entitled to your opinion. But I do think it's particularly relevant and the only reason I mean that chairman is that I think it's completely distinguishable for example if there was a single-family home there. That's why I pointed it out. It's important to note that also if you look at the allowable uses in the business district obviously there's a whole range of what I would call more intensive uses. We have explored those over the course of the past few decades there not particularly feasible at this location. It's also important to note that if you look at the relevant section of the zoning code a 4-story building is expressly permitted in the Town's business districts. So obviously as is the case with any request for an area variance that comes in front of this board or any other board in New York State governed by the ... test 5 criteria set forth in NYS village law section 7712B3B which requires you on the one hand to balance the benefits over received by the applicant if the requested relieve is granted and weigh those against any resulting harm though the surrounding neighborhood or community. Here we think it's quite clear there are benefits this will allow us to proceed with the 4-story building that is permitted. This will allow us to sit that building what we believe is the most appropriate location. I would note we do recognize that directly across the street we have some single-family homes. So that the only side of this building that would include balconies would be the west side facing the right away. We're not proposing any balconies on the front or east side that could be visible by nearby residential uses. So, we think it's quite clear there's benefits and we've talked about site, zoning I also want to mention strangely enough that if we did this exact same building this exact same foot print and it was any other use its enumerated in the business districts we wouldn't be here. The reason for that is the zoning code only imposes that greater setback based on building height for multi-family uses, if it was an office building a retail use ect ect. The required setback in this instance would be 10 feet we could actually have it 10 feet closer to the right away. So, I think it's clear there a benefit. On the other hand, what are the detriments, and here why I think chairman the emphasis on the right away for the Robert Moses Parkway is important. There really aren't detriments the only property that's impacted is property that's owned by NYS. Meaning that deviation from the zoning code that western side yard setback of approximately 20 feet has actually no impact on anyone else what so ever. The 5 criteria's of

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course that you need to consider in connection for an area variance are as follows: Whether or not the granted requested relieve will result in undesirable change to charter or detriment to nearby properties. As I mentioned with the exception the one area variance, we're asking for we intend to comply with all the other detailed aspects of the zoning code. Whether they pertain to landscaping, lighting, appearance, access ect ect.

Conti: A detriment to the neighborhood as far as you have all single-family homes in the neighborhood since you're bringing this up, I am going to kind of go with it.

Hopkins: No sure that's fine chairman I like comments

Conti: You have a single-family homes on the neighborhood this is the only 45 foot large building that's going to sit across from all single family home and alongside all single family homes. So, don't you see that as being a negative for that neighborhood?

Hopkins: No, the reason why I don't is you have to keep in mind you have to focus on what the relieve is 4 stories is permitted.

Conti: But you brought it up. I understand that we're only looking at that side.

Hopkins: Right

Conti: But you also brought this other stuff up. So, I am going to continue on with it.

Hopkins: So, the only position I can take is that the variance itself is not resulting in any harm. I can't speak and I certainly wouldn't put myself or my opinion or support or substantiate my opinion for those of the neighbors. They may not like the 4-story building and I do understand that but it is permitted by the zoning code. Regardless of the fact that there are some single-family homes on the opposite side of a 4-lane highway. I totally acknowledge that but what we are here for this evening is not the fact that we have a 4 -story building it's that we have a setback variance from the entrance onto the Robert Moses Parkway.

Conti: It's only a 2-lane highway 104 is only a 2 lane

Hopkins: I thought it was 4 that stretch

Massaro: Right, there is 4

Hopkins: I believe it is 4

Conti: Right in front of that spot is 4 it goes right down to 2 then it's 2 right

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Massaro: I have a screen shot on google maps you can see it's 4 lanes

Hopkins: I thought it was 4 right there. But regardless it's a wide road. It goes to 2 as you head east but I think right exactly right in front of the site chairman I think it is 4.

Conti: Ok go ahead

Hopkins: So, I think we addressed that by criteria. The second criteria is whether or not there's any alternatives to the requested relieve that would allow the applicant to receive the benefit it's seeking without the requested area variance. And the answer to that is no we have determined that we need 20 units here obviously we are working with ... of the project site and we made a deliberate effort to emphasize that building being up closer to the right away with the balconies facing the right away. So, while I understand that nearby residents my prefer another use or less intensive use, we have made an effort to minimum those impacts. So, we think we have addressed that criteria. The third criteria is whether or not the requested relieve is substantial. In the case lot dealing with that particular criteria again and again refences really what we are looking at is harm. Will any harm result not from the project but will any harm result from granting of the requested relief. Again, as I have indicated I think the answer to that is clearly no. Given where it is. And given again that the duplicatable measurement is only from the on ramp to the Robert Moses Parkway. Criteria number 4 is whether the granted requested relief has any adverse, physical or environmental impacts. It is important to note that we did submit the completed short environmental assessment form.... Pursuant to the state environmental ... review act with our application as I have already indicated we intend to comply with all other criteria whether it be setbacks storm water lighting number of parking spaces ect. ect. ect. So ultimately, we think conclusively that the granted request relief itself will not result to any of those criteria. And finally, the 5<sup>th</sup> criteria whether or not the alleged hardship is self-created. And as this board is well aware that particular criteria in itself cannot be resole bases for decision making all I would know with respect to that criteria is obviously we're aware the requirements set forth in the business district section of the zoning code. I would emphasize again that is this was anything but a multifamily building even at 4 stories the required setback would be 10 feet and also the fact that this has been basically owned by the applicant since 1979 and I believe the zoning code has probably been amended since that point in time. None the less even if ultimately you find that we have not satisfied that criteria whether or not the alleged hardship is self-created that is the sole criteria I think that possibly could be viewed as not going in our favor. We think quite clearly over all the balancing task and at least 4 of the 5 criteria provide ample and strong justification for the granted requested relief. So, we would ask you to consider this evening is the granted the requested area variance with it again being acknowledged that this is step one in the review process it will be reviewed probably very in-depth by other municipal boards in the Town of Lewiston as well. Obviously if you have any questions, we would welcome the opportunity to address them and I do want to note if anyone wants to take a closer look at the plans they are here. Thank you!

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Conti: Any questions from the board?

Maggard: I think you failed to say that the setback you are requesting is substantial even if it does not affect anyone it is still substantial.

Hopkins: Right, so but what the case law says in respect to that criteria what I call the substantiality criteria is that a zoning board cannot simply look at the deviation or the quantitation of the zoning code. You have to actually look at whether or not any harm will result in my position no harm will result.

Maggard: I understand that

Hopkins: That's the only difference there

Conti: Any other questions?

Seaman: What the setback would be if it was a 3-story building

Hopkins: For example, if it was a 3-story building say you had 9 or 10 feet it was 33 feet the setback would be 33 feet. Right, it's the equivalent to the build height

Conti: Right. And on the application, it has listed as 45 for building and they were looking to go with 22 feet from the lot line. So, when did that change?

Hopkins: Right

Massaro: Right, we took a closer at the top of the actual roof is 42 feet in the application that was submitted 4 or 5 weeks ago I think we were incorporating we were incorporating roofing equipment that isn't suited for human occupancy in this case it's a flat roof with a parapet if you go up to the top of the parapet you're at a little over 44 and half feet but the top of the roof which kind of governs building height as per language in the Town of Lewiston's zoning code it is 42 feet.

Conti: Ok so when did it go from 22 to 20

Seaman: So, if it was

Massaro: No, I think that's the one place where Sean misspoke the variance the side yard setback that is indicated on the site plan is 22 feet.

Conti: Ok

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Massaro: We need a variance of 20 feet

Conti: Ok alright

Hopkins: Ok let me correct that for the record. The side yard setback that we are showing the applicable set back is 22 feet which represents a deviation of 20 feet in the building height per the elevation plans prepared by Silvestri Architects that weren't available when we filed the application shows a peak building height of 42 feet per the definition set forth in the zoning code.

Conti: Ok

Seaman: So, if it were a 3-story building the variance would be 10 feet

Hopkins: Well, no so if it was a 3-story building with a height of 36 feet by way of example or 30 feet it's the equivalent to the building height

Conti: Well, what he's saying is that at that point if it was a 3-story building

Hopkins: The magnitude of the variance would be reduced accordingly. Yes.

Seaman: Ok

Hopkins: And I do want to note so the question I guess is why 3 story vs. 4 story. In our position is that's the density we need to make this project economically feasible and again the fact that a 4-story building number 1 is expressly permitted and number 2 that particular area variance building set back that we are seeking results in no harm to anyone else.

Seaman: Have you provided any criteria to the board that indicate any feasibility of a 3-story building which would mean a reduction of units

Hopkins: No

Seaman: No, it wouldn't be feasible

Hopkins: No so we have not provided any

Seaman: ... wouldn't be feasible but you don't have documentation of that is that correct

Massaro: We've obviously run the numbers on this and our proforma projections indicate that 3 stories or 16 units the project becomes financially unviable. Just with increase construction costs not in just the last 9-12 months but since the onset of the pandemic interest rates rising

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200- 250 basis points over the last 12-18 months. We had a similar multi-family project approved for a 1.8-acre parcel that's adjacent to the project site directly north that unfortunately over the last year, year and half as of right now has become financially unviable just because of those factors that I have just briefly described.

Conti: Is that one that is down below?

Massaro: Exactly

Seaman: So, you're telling the board any 3-story building with the reduction of units would any place would not financially feasible is that what you're saying?

Massaro: 100% and I would be happy to share financial projections that I have put together with the board if it... absolutely I mean if a part cost \$200 per square foot not including architectural and engineering

Conti: And what was the acreage on this practically piece

Massaro: .78 acres

Conti: And the other one that you looked at was 1.7 you said

Hopkins: So, let's just acclimate the board

Massaro: 1.8

Conti: 1.8 So

Hopkins: Here's the site we are presenting this evening.

Conti: Right

Hopkins: And what Nick was mentioning was the remainder the back where I believe there was already an approval for a 10 unit building that has not been constructed.

Conti: So why not put that larger building down there and it's not seen from the road there's no worrying about a variance for a side yard set backs

Massaro: Yeah, we would like to but it was a completely different review process and I mean I can get into the details about it but that was kind of flushed out through the planning board and town board phases. That property this what we are working with here is a special general

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business zoning designation which allows for not necessarily higher density but higher building height we weren't afforded that luxury if you want to call it that down here for that 1.8-acre parcel because that was originally residential 1. So, when we tried to successfully, I guess incorporated into Ridgeview of Lewiston which is a planned unit development it's 164-unit apartment complex. Directly to the north. Make this part of Ridgeview let us respectfully build another apartment building there. They held us to 10 units based on specific language in the code that said that we still had to adhere to the residential 1 density requirement. Which was 1 unit per ever 11,250 square feet which is a 75x150 lots. Which makes no sense what so ever what's the purpose of having a PUD but that's what happened so we able to get 7 units out of that and gave us a variance for 3 additional units hence the 10 units. They wouldn't allow us anything more. So that's where we are today kind of working with what we have and what the other municipal bodies allowing us to do.

Seaman: So over 3 stories it would be 15 units

Conti: 16

Seaman: 16 units

Hopkins: And I do want to know Mr. Seaman I don't think so we are saying at this particular site we know that density is not feasible I don't want, I don't want standing for the proposition that anywhere in Western New York you can't build a 3-story building. That's not an accurate proposition.

Massaro: And you were right the first time 15 units for a 3 story.

Hopkins: 5

Conti: He was saying 16

Massaro: I misspoke

Conti: So, it's 15

Hopkins: It's 5 for 4

Seaman: Well, I think you should provide that documentation because you're making an assertion. Making an assertion with nothing to back it up

Hopkins: Obviously this is the first presentation with this board

Seaman: Correct

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Hopkins: We wanted to come in and give it if there's additional information you need, we'd gladly provide that absolutely.

Seaman: I think that would be helpful to the board.

Hopkins: Ok

Conti: Any other questions for them from the board? Ok thank you very much. Is there anybody else here that would like to speak on this. Can we move these over just so that

Hopkins: Yeah, I can

Maggard: Yeah, they might want to see them too

Conti: Well maybe put them off to the side so they can see them. Anyone in the audience would like to speak please come to the microphone and state your name and address. Please state your name and address

Milla Gibbs: 698 Ridge Road which is right across the street from this property. And when Shane (Sean) I believe name is. Said that this project is no detriment to the neighborhood. It's a huge detriment I am shocked that he would even say that this is a beautiful residential area. This would be a building it would not fit in with the aesthetics of the other with the neighborhood. There are no other big apartment buildings like this on Ridge Road anywhere that I know of. The whole development Mr. Massaro has over built that whole area according to my calculations over 600% more than that original comprehensive plan or development plan. That town had developed. It's dangerous right there that's exactly where it goes from 2 lanes to 4 lane it's just a dangerous spot just the way it is and then to add this would just be horrible. I am totally 100% against it I have a few neighbors here they are bashful they won't speak up and they are here and they are against it also. Thank you!

Conti: Thank you! Anybody else like to speak? Just state your name and address

John Murnyack 716 Ridge Road: First of all, I would like some clarification if we can. Let me see which one of these here shows this. It's my understanding this is the business zoned area this is residential here they bring it up to you as though it's all business and it isn't.

Hopkins: Your correct

Murnyack: Ok but again you presented to the board that it was business and it's not ok. This was please

Hopkins: Go ahead

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Murnyack: I am structural engineer by trade and I know a architects have a lot of BS so please let me speak.

Hopkins: Please don't insult me

Murnyack: Ok so there was on this parcel was a single-family home at one time I have lived there for 45 years and there was a single-family home there that burned and they had to demolish it ok it's residential

Conti: On that spot where they are proposing is that what you're saying

Murnyack: Yes, yes, the foundation is still there. Ok the house was removed its residential area with a small section that is business. So, let's just clarify that because they are making it sound as though hey it's just business, we're going to do this. Ok the other thing is that

Conti: Go to the mic please because it's got to be on the recorder. Thank you!

Murnyack: This is being proposed with residential people that own property owners that have to look at this. This isn't being proposed across the street from Mr. Massaro's house it's not being proposed across from any of your homes. Would you want to look at this would you want 20 more cars in and out of there? NO! This board needs to stop this development ok it's over developed. Ms. Gibbs said it's over developed he needs to do something else with piece of property in terms of a single family residential. Which he said he can't justify that or just leave it like it is. But you people on this board and the other boards that are going to see this have to get a back bone and say NO. We have fought for these residents here have fought this development the 10 units was brought up. We fought that I was at the very last meeting when the town board approved it. And I was still saying NO, that it shouldn't be built and the town board approved it. Stop it now ok so it doesn't go any further because this is wrong for Lewiston. It's wrong for Ridge Road like she said there isn't a single multifamily resident on Ridge Road in Lewiston. There isn't even a duplex if I am not mistaken. OK but what I am telling you OK think about it in terms of do you want that across the street from you. Because if you approve it, you're telling all of your neighbors here including myself that you would be ok with that if it was across the street from you. One of the other things I wanted to bring up I am very surprised the three people when the 10 units were proposed the 3 residents that were at the meeting the original meeting with the planning board, they were very vocal about that. Didn't even get an invite to this. I know about it only because my son got an invite because he's a little closer to the village. So, your question

Seaman: My question to you sir is the point you're trying to make that it's going to change the character of neighborhood?

Murnyack: YES! Do you think so listen let me ask you this question

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Seaman: I am just going to clarify

Murnyack: Let me ask you this question have you drive through the development

Seaman: I am not here to answer questions I am just asking you to clarify what you are saying that you're indicating that your point is that it would change the character of the neighborhood is that correct

Murnyack: Yes. It's all single-family homes ok single-family homes. I am going to emphasize this again do you want that across the street from you? I bet he wouldn't want it across the street from his home where every he lives.

Conti: I am not saying I agree or disagree at this point we still have to go through all this stuff but know that all that is in front of this board here is the 22-foot 20-foot variance on the side. We have no control over anything else that goes on, on that property other than that they are requesting that 20-foot variance. I am not saying that I don't agree with you with what you're saying

Murnyack: And you can deny that variance

Conti: Your right

Murnyack: And then that puts a damper on their ability to do this

Conti: I understand that but I am just letting you know because of some the stuff you're bringing up I am not saying I don't agree with you but I am just letting you know that what's in front of this board is the variance on that one side. I just want you to realize that cause we don't have.

Murnyack: I am aware of that ok. But what I am saying is these are the steps that are being taken to allow him to build this and we the residents don't want it. So, you have the ability to say no we are not going to grant that variance and therefore they won't be able to build that particular building on that parcel.

Conti: Ok any other questions for John? Anyone else want to speak on this? Come up to the mic state your name and address please.

Matthew Murnyack 708 Ridge Road I guess because we are only here for this variance for the right away, I could reiterate what the last 2 people said but. I guess they're in the business of making money I understand that we all have to make a living. I am sure they do very well for themselves. With this being zoned business partially and partially why can't they do something

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else with property other than this giant complex that's not going to require a variance. I am sure they can build something there that will make them money that won't require the variance. That's all I want to say.

Conti: Thank you! Anyone else want to speak on this behalf.

Massaro: Could I respond please

Conti: Sure

Massaro: Go ahead. Go ahead Sean

Hopkins: Briefly I want to reiterate again what the zoning is. The Zoning of this particular parcel the .78 acres is B1 for business districts were not saying that zoning pertains to the remainder of the site. If it was misconstrued that way, I apologize that's not at all what we are doing. I thought that Nick did a good job explaining why 10 units were only allowed in the back. I also want to note for the record again we're only here seeking that setback variance.

Conti: I got that right

Hopkins: We made that very clear. I get that if I lived across the street maybe I would not like this. But this is permitted by the zoning code. It's not whether the neighbors like, it's not a populator contest obviously you're doing it based on your statutory authority that comes from NYS. Which sometime puts you in an uncomfortable position but you certainly acknowledge that. I do want to note that if you actually look at that section of the zoning code in terms of the permitted uses section 360-70 of the zoning code it allows a wide assortment of what I would call more intensive uses including certainly uses that would result in way more traffic. It allows retail uses, restaurants, hotels, nurseries, dry cleaner, custom trade, plumbing, heating, electrical shops, general commercial buildings ect, ect. Those are expressly permitted by the code at 4 stories with a 10-foot side yard setback from the right away. I am not sure why there is a difference for multifamily vs. commercial but it really doesn't matter. Are emphasize again is what is the harm of this request. Not what is the harm or what is the perceived harm of a 4-story building or what's the perceived harm of a multifamily building or what's the perceived harm of 20 units vs. 15. It's literally that limited inquire what harm results from the granted of a setback variance from the right of way of the entrance of the Robert Moses Parkway. So, I would emphasize that again I believe Mr. Seaman had some questions or some additional comments so we would welcome them now to answer those.

Seaman: On your rendering is there a reason that you didn't show the super structure on the top of the building I mean it's don't go into the height I understand but it goes ...

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Hopkins: I think Silvestri Architects didn't do it. If you wanted to see that I think what we can say for the record is that it would be comfortable saying it will be completely screen so it won't be visible.

Seaman: Ok. Now on the 22 feet it's double the height of the building set backs are. What is the other plan for open space you know recreation space for the residents on this. .... Would render that some recreation space what substitute do you have for that?

Maggard: It's 42

Hopkins: So, Mr. Seaman obviously we do have some area here that we could program for recreation space obviously were not at the point where this is being reviewed by planning board. But if anyone had some input on that I think we would certainly welcome it. We could make that a nice amenity. You see this area directly behind the building. In terms of green space and some pedestrian amenities for future residents of the 20 units we could certainly include that. But what we are typically seeing now in these new multifamily projects is that some people want dog parks so there's a very designated area. People like to have a little outdoor seating area but those are types of low intensity amenities people like to see. The good news is those would be behind the building and I think categorically wouldn't have any impacts on the home owners across the street. I do want to emphasize again the preference is nowadays if you look at new multifamily project in WNY generally you see balconies we really did make a deliberate effort to only show balconies on that side of the building that faces the right away for the Niagara Moses Parkway that a concession I know it won't be viewed as a concession but if we put them on the front of the building or the east side of the building now you have a people in theory single family homes across the street could actually see those people probably not hear them but at least see them. So, we are only going to have that on the west side of the building.

Conti: Was there any thought put into some kind of foliage tree in the front to block so that nobody sees so it kind of blocks the whole thing.

Heuck: That's the planning board

Conti: Yeah, that's the planning board right but I mean as far as the residents here

Hopkins: We certainly be more than willing to engage in that discussion. It's not meant to be a final landscape plan as one of the board members indicated that will be reviewed separately.

Seaman: Even if you could have 22 feet as the required there would be some more green space on the western side. I mean that goes into reasons for the setback obviously it's not a setback you would see in a residential area it goes by height and there is a reason for that

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Hopkins: The only strange thing in your zoning code for my perspective I do work in a lot of municipalities is that, that setback only applies to multifamily meaning if you do a commercial building, you could have a side yard setback of 10 feet. I can't spatulate what the distinction was when the code adopted.

Seaman: Well, you don't have residents there

Hopkins: But I am saying. We could literally build that. If that building was an office building that exact same foot print were not here today.

Conti: But what he is saying that at that point you wouldn't have the people that living there want the green space. I think what Mr. Seaman saying is that when you have people living there, they are going to want the green space.

Hopkins: We would have the green space we are again 20 feet from at least 20 feet from the property line and then an additional 105 feet so there is a lot of green space.

Conti: You can't go back 105 feet it's not your property

Hopkins: It doesn't matter

Conti: But it's state property you're not allowed on State property to go and enjoy it

Hopkins: It's green space

Conti: But it's not your green space

Hopkins: Right

Conti: He's saying that... you're talking about the green space on your property not other property so we have to drop that other property

Hopkins: What's off site is very relevant in my opinion

Conti: Well, that's your opinion

Hopkins: Oh, I know. Mean I think this would be a completely different case if we were here and next door was a single-family home and the parcel was zoned residential, I get it. I could see the key difference there. The other thing I want to note again I heard in refence to the history of this area and the appropriateness of multifamily if you actually look at the adopted comprehensive plan, I have provided you with an 11x17 colored copy of vision map it is deed

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appropriate for this type of development. It's that yellow color right on the comprehensive plan I believe that's been in place since the update in 2011. Decisions have been made that this is a use that is permitted in this area. It's nothing new.

Conti: Ok. Any other questions for Sean?

Hopkins: Mr. Massaro just has one comment

Domonic Massaro Jason Court. I just want for the board... the building was pushed to the west the closer to the right away of the parkway because the fire Marshall looked at the original plan, we have the building more centered on the property but always facing long ways so it wouldn't be so obtrusive to the neighbors across the street. What happened was he looked at that he wanted to have more access for his fire equipment to get up on the roof and he said Dom we need to be able to get our trucks there to get up on the roof even though the building is going to be fully sprinkler by code. He wanted to have aerial access onto the roof. So, we had Silvestri do the redesign it required the building being pushed to the left west excused me giving more parking to the east and allowing for more turn around for the fire equipment. That's the reason why we are here today for that. Otherwise, we tried to make it totally compliant with regard to what the GB code allows.

Hopkins: It's actually thank you for bringing that up. So, there is a provision in the NYS fire code know as appendix D and basically what it says is for this type of building, we have to have a code compliant designated emergency access road. So, I think what Domonic is referencing is can you see this T turn around that has been specifically been incorporated into the site plan prepared by Silvestri Architects to accommodate a large fire truck being able to access the site on two side of the building and then not having to back into the road. So that is very relevant and that did dictate part of where the building location is.

**Conti: Ok as Mr. Seaman had mentioned were looking for finical documentation so what we will do at this particular point is we are going to leave the meeting open till July**

**Hopkins: Any other information the board would like to see or Mr. Seaman? We just want to make**

**Seaman: I am just substituting Sean**

**Hopkins: That's ok. You're doing a good job!**

**Seaman: The more information the better**

**Hopkins: Ok we have some good notes I think we can write an update comprehensive submission.**

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Conti: And is there any other way to bring this building further away from that lot line? I know you made a move an

Hopkins: I am not sure there is but you have our assurance we will take another look

Conti: And really looking at the building and looking at the property you keep saying you're facing the short end out you have no choice

Hopkins: Right

Conti: So, I mean it's kind of like you're making it say you're doing it this way because we are trying to help the neighborhood but you're really not

Hopkins: I was euphuizing the balcony location. You could have balconies on 3 sides of this building we deliberately only proposed the west side

Conti: Ok So I said we will keep this open and we will request the finical documents if anything else comes up between now and then we will get a hold of you

Hopkins: Thank you everyone have a great evening

**ZB-06-2023 (B)**

Conti: Alright let's call the next variance Crystal Dillard. Peter Fontanarosa speaking on her behalf I gave a letter to Lisa 2723 Ridge Road, Ransomville NY SBL 90.00-3-8.1. Come to microphone state your name and your address and who you are representing.

Peter Fontanarosa 979 James Drive Lewiston representing Crystal Dillard. What we are proposing with this present piece of property that her family owns there is a house on it which is her mother and father it's 20 acres. We have 211 feet of frontage I understand we need 125 per so we are requesting a variance to allow this other house to be on the right side of the proposed property. I put a little spot where her house she wants to set further back than her parents so they won't be on top of each other.

Conti: And that's going to reduce the frontage from 125 to 105.63 correct

Fontanarosa: Yes

Conti: So just splitting it right in half

Fontanarosa: Yes

Conti: Is there a reason why. Well let me ask you this here when their splitting the lot are they going all the way back or are they going to keep the whole back part?

Fontanarosa: What they are going to do is probably take it back. If she goes further back with the house ... you have enough so that lot might not be 200 feet deep might be 300 even though they have 3400 feet we are going to designate a lot and the depth of the lot hasn't been set up because we have to find out the country wants for the set back

Conti: Ok. Is there a reason why she wants to build there?

Fontanarosa: Her parents are next door and they are elderly and she just wants build there.

Conti: Ok. Questions

Maggard: There's quite a distance between the existing home and the home that their planning on being built

Fontanarosa: Is there quite a distance?

Maggard: Yes

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Fontanasrosa: I have a plot I don't know the footage wise it's considerably for example here the present home her house is going to be set back considerably maybe 50/60 feet further back so the only incumbrance if there is any would be the driveway along the edge going house to house.

Seaman: It would meet the side yard set back

Fontanasrosa: It will meet the

Conti: The only thing we are looking at today is to drop it from 125 foot wide both lots down to 105.6 so basically 19.37

Maggard: Yeah

Members talking

Maggard: I don't see a problem with it

Conti: Any other questions from the board? Ok thank you Peter

Fontanasrosa: Thank you!

**Conti: Anybody here to speak on behalf or for or against this project? I would like to close the... Can I have a motion to accept or deny this project**

**Heuck: I would like to make a motion to approve**

**Warnick: I second**

**Conti: All in favor**

**Members: Aye**

**Conti: Opposed. Lisa pull the board**

**Lisa: Joseph Conti: Aye, Gary Heuck: Aye, Marjorie Maggard: Aye and David Warnick: Aye**

**Conti: Ok it's all set**

**ZB-06-2023 (C)**

Conti: Ok our third variance tonight is George and Jennifer Adamson 4784 E. Eddy Drive Lewiston, NY SBL 101.08-2-41. Please state your name and address

George Adamson on am here on behalf of my wife and I 4784 E. Eddy Drive

Conti: Explain what you would like to do please

Adamson: We are simply looking to get a very minor variance on the side yard setback for an addition we are putting up. Given drawings to the planning board I believe they should have been in the package material. According to the drawings we would be going from 15 feet down to 14 feet I asked for 4 just because they haven't broken ground yet I would rather have little bit of wiggle room. I don't really see it being much more than what is shown there because the doorway going out to the new part has to be in a very specific spot from the existing house so the plans, I would think at most would be going from 15 to 13 feet depending on how the foundation sits.

Conti: On the permit you asked for 15-12 3 feet ok

Adamson: Basically, adding another 2 feet on to what we asked to be safe

Conti: Yep

Maggard: So, it's a side variance of 3 feet

Conti: Yes

Adamson: Correct. We have spoken with all the neighbors that were noted the Chu's were the most immediate neighbor and no one has voiced any objections. In fact, some apologized for not being able to come tonight to voice that they had no objections.

**Conti: Any questions from the board?**

**Maggard: I would like to make a motion**

**Conti: Hold on. Ok thanks you can sit down. Anyone want to speak for or against this project? I would like to close the meeting. Go ahead and make a motion now to accept or deny this project.**

**Maggard: I would like to make a motion that we accept a side yard variance of only 3 feet it is not a substantial and it won't be altering the neighborhood at all. So, I would like to make it granted to George and Jennifer Adamson at 4784 E. Eddy Drive**

**ZB-06-2023 (C)**

**Conti: Can I have a second**

**Heuck: Seconded it**

**Conti: Gary all in favor say AYE**

**Members: AYE**

**Conti: Opposed. Lisa**

**Lisa: Joseph Conti: AYE, Gary Heuck: AYE, Margorie Maggard: AYE and David Warnick: AYE**

**ZB-06-2023 (D)**

Conti: Alright moving right along. The next one Alexander Ackley 4909 Ridgeview Avenue, Lewiston, NY SBL 101.12-2-31. Someone to speak for Alexander. That's Alexander

David Giusiana: Alex Ackley he's the owner of the property. I am Dave Giusiana from Giusiana Architects his architect.

Conti: Ok are you speaking on behalf of

Giusiana: Yes, as his agent. Alex recently bought the property was for multiple years abandoned bought it foreclosure sale. It's a standard sort of ranch type house keeping with neighborhood. The one... part of development of this project is that the one single car garage had been previously developed into interior residential space so there actually is currently is no garage at all. So, the only way to get a 2-car garage which again with keeping with neighborhood and where a lot of the homes are 2 car garages. Was to seek this variance from the side yard setback. Because it's approximately 87 feet wide we needed about 13 and change variance the smallest we can make it and still be a 2-car garage in there is asking for relief of 5 feet ... 8 feet and change are the numbers. And again, with keeping with neighborhood it's the minimal variance that we can do and still get what my client is looking for.

Conti: So, is the house still vacant?

Ackley: Yes

Conti: It is. Is your plan to move into this house or is this going to be a flip?

Ackley: I plan to move into it.

Conti: Questions from the board?

Maggard: How so do you expect to be moving into that home?

Ackley: Hoping to before the end of the year

Maggard: Toward the end of the year

Ackley: Yeah

Maggard: You live on Hoover Road now?

Ackley: I live on Jerauld Avenue Hoover was my previous address

Maggard: Oh, I see ok. So, you're not going to flip it?

**ZB-06-2023 (D)**

Ackley: No

Maggard: Ok

Conti: Are you looking for just. Is this just going to be a 2-car garage? Or is it going to be 2 car and single car

Giusiana: 2 ½ car garage basically. The other bay well will be a full car depth bay because we have to plan bathroom laundry room and other things that will be in that space. So, we are going to recoup so of the previous converted garage into garage space but then again, it's the whole depth. Some resident and some storage space.

Conti: Well because on the application it says need 2 car garage bay and a single garage bay for my camper and storage. Is it a small camper?

Ackley: Yeah

**Conti: Questions on the board? Ok thank you have a seat. Anybody else like to speak for or against this project? Ok I would like to close the open meeting. Any questions from the board other than that? Ok make a motion for or against this project.**

**Heuck: I will make a motion to approve**

**Warnick: I will second it**

**Conti: Ok I have a motion in the second. All in favor Say AYE**

**Members: AYE**

**Conti: Opposed Lisa pull the board please**

**Lisa: Joseph Conti: AYE, Gary Heuck: AYE, Marjorie Maggard: AYE and David Warnick: AYE**

**Conti: Ok your all set**

**Ackley: Thank you!**

**ZB-06-2023 (E)**

Conti: On to 5. Angela Casal 5091 Dana Drive, Lewiston SBL 101.20-3-39. Angela

Good evening ladies and gentleman of the board my name is Bob Copland president of master electrician for Wave Form Electrical here this evening to represent Mr. and Mrs. Casal.

Conti: Are they here right now?

Copland: They are not

Conti: Do we have a letter.

Members talking

Conti: Go ahead

Copland: Thank you! So, this evening I am here just to present to you the owner of the residents is requesting a side yard set variance the south side of the house to reduce I believe the setback is currently 15 feet for residential area. I believe we asked for 11 feet but don't quote me on that. I do apologize.

Conti: What I have showing here is the side yard requirement was 12 and she wants to go to 8 ½.

Copland: Ok so my apologizes there was a conversation had with the building inspector where we there was a misinterpretation of code to allow us to get that generator closer to the house. So, we would actually only need maximum distance set back from the neighbor's property line of a 11 ½ feet.

Conti: Ok

Copland: So, it's not that significant

Conti: So, it's all going from 12 to 11 ½ feet

Copland: That's correct

Conti: So, you're looking for ½ a foot variance

Copland: I am sorry. So just so I am not misunderstanding this for the survey is 12 or is it 15 feet?

Conti: I am looking at the application here that says 12 now I don't know

**ZB-06-2023 (E)**

Maggard: You asked for 4 feet

Conti: I know that but he's asking normally it is I will read it right of the thing here side each side will have a minimal 15% width of the lot provided that no side shall be required to be more than 15 feet in width. So, it all depends on the width of the actual piece of property.

Copland: And I apologize I do not have the survey with me but memory calls 15 feet being the side yard up to the south side of the house currently so

Conti: So, you're looking to go from 15 to 11 ½

Copland: That's correct

Conti: Ok So we will just make sure that that's part of the

Maggard: Is that near a window?

Conti: They have covered all that I would assume

Copland: Yeah, so that was part of our conversation with the building department

Maggard: Yes

Copland: Again, being a misinterpretation of the code, it is in the area of a window but just to answer your question the way it is worded we are within the tolerance per the code.

Maggard: Ok

Conti: Mr. Seaman you had something

Seaman: I just I thought the just looking at the application it looks like it's currently at 12 foot

Conti: Well, that's what the application says but now I think there was some misunderstanding

Seaman: 15 feet from the property line

Copland: Perhaps maybe we should go with the application

Conti: But you're looking to go to 11 ½ feet

Copland: I think

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Seaman: The survey shows 12.1

Copland: That was my question earlier I apologize so if the survey does in fact show 12 then yes, I am asking to reduce to 8 feet

Seaman: I just wanted to make sure

Copland: I am so sorry for the confusion. I did not come prepared this evening at all.

Conti: Ok. So

Copland: If you wouldn't mind

Seaman: Here

Copland: Closed porch... Yeah so according to the survey I read at 12.5 to the front of the building on the south side and then 12.05 feet to the east side of the back side of the residents. On the South side and yes, we would be asking to reduce that down to it would actually work out to be 8 ½ feet but if we asked for 8 feet and it's granted, we would be more than ok.

Conti: Because like I said on this application that's what she had on this application from 12 to 8.5

Copland: Ok so that is accurate.

Conti: That is accurate

Copland: My apologies for the confusion. I am so sorry again I usually have a pretty good memory for these sorts of things but not this evening.

Heuck: You're getting older

Maggard: Joe I talked to Tim and talked about having the generator 4 feet from the house plus the generator is about 2 feet so that would make 6 feet from the line.

Conti: But that's not what they are asking for. So.... No 8 ½ is what they are asking for that's what he is saying

Maggard: But why is he asking for that much?

Conti: He's not asking for 8 ½ feet he's asking to go from 12 to 8.5

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Maggard: I see ok got it

Copland: 4 feet. So just to give a little clarification so code requires this specific residential generator to be no closer than 18 inches close to the house and the generator itself is 22 ½ inches in depth for a total of 3 and change feet.

Conti: Ok

Maggard: No problem

Conti: Ok

Maggard: I just wanted to understand it

Conti: Ok. Any other questions from the board?

Maggard: No

Conti: You can have a seat.

Copland: Thank you so much and again I apologize.

Conti: It's ok. Anyone want to speak for or against this.

John Murnyack 716 Ridge Road I guess my only question is...is this request is to allow a generator to be installed closer to a property line. Was it addressed with neighbors?

Conti: The neighbors have been notified of this meeting of what's being requested.

Murnyack: Ok so

Conti: So that's up to them to show up to the meeting

Murnyack: So, the neighbors haven't bothered to come so perhaps being that this generator and the neighbor's bedroom happens to be right there you know that creates a problem. I know that.

Conti: And this is why we....

Murnyack: There was a lot of people in my case that weren't notified to come to the meeting and they don't come alright.

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Conti: Right

Murnyack: Whether these neighbors didn't have any input or they were busy or whatever I don't know

Conti: If you can't make a meeting and if you have been notified of the meeting and you're against it you can easily write a letter and we will read and we have read at a meeting saying that John Doe is blah blah blah. So that's up to the neighbors to do if they don't show up and...

Murnyack: Listen to people that requested this didn't even show up.

Conti: They sent a representative

Maggard: John there is fence in between the two properties too.

Murnack: Ok. Do you want a generator going off in the middle of the night ok.

**Conti: Anyone else like to speak for or against this project? I would like to close the open board. I would like to make a motion. Any other questions from the board? I will make a motion to grant this variance. Going from required 12 foot down to 8 ½ foot to install the generator.**

**Warnick: I will second that**

**Conti: All in favor say AYE**

**Members: AYE**

**Conti: Opposed? Lisa pull the board**

**Lisa: Joseph Conti: AYE, Gary Heuck: AYE, Marjorie Maggard: AYE and David Warnick: AYE**

**Copland: Thank you!**

**Conti: Thank you!**

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Conti: Last but not least. Am I will be so happy to go home. VMC group Inc 4660 Model City Road, Model City SBL 88.00-1-25. Is there anybody here to speak on this?

David Giusiana from Giusiana Architects.

Conti: You again. Sorry I didn't mean that. I was just kidding.

Giusiana: As my client pointed out that I am double dipping.

Conti: You get paid double

Giusiana: No unfortunately.

Members talking

Conti: Ok go ahead state what you are looking for

Giusiana: Everyone know the properties correct. Probably the most famous deteriorated property in the Town of Lewiston. So, what we are seeking to do is divide it into 3 lots. Primarily so, so they weren't marketable and economically worth renovating those building. So, we were talking about (2) 44 foot wide (1) 88-foot lot and the subsequent setbacks. One level self-created because we are doing a subdivision but the actual dimensions of the physical location of the buildings on the property that's existing. So again, we see this as avenue to finally improve restore those properties they way they should be restored. Without necessarily changes the charter of the neighborhood for the better. So that is why we are here.

Conti: What's the height of the building?

Giusiana: Two short building with a kind of higher pitched roof. So, if I had to guess 22-23 feet at the peak.

Conti: The reason why I am asking is because the zoning for the industrial district that those houses are in explains that the side yard along the side of every lot in an I district not less than the height of the building nearest the side line. Unfortunately, I have no idea probably wasn't around when these were built. Maybe I was

Heuck: No, you weren't

Conti: These ended up on a light industrial piece of property makes no sense to me but it was probably done during the power project when they were doing all that kind of stuff. Filling in the lots or whatever else to make houses. It's quite an amount of a variance that you're looking for.

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Giusiana: Certainly

Conti: beside the fact of making (2) 44-foot-wide lots was there any thought of knocking the middle house down and making two nice houses and probably making more money than selling the properties

Giusiana: They are asking if you thought about taking the middle house away so that you would have (2) 80-foot-wide lots and you would still have a setback issue

Conti: The one it wouldn't necessarily be 88 I think one would have to be a little bit wider to make that extra space for that side yard and then the other one would be fine. And you are state your name and address

I am Charlie Granim

Conti: Ok

Granim: First of all, it's so good meeting you all. I really just came today to say hello.

Conti: Hi

Granim: Thank you because I don't have one bit of technical knowledge.

Conti: Now are you the owner of the property?

Granim: Yes, I am. Actually, VMC group was in the Town for a number of years as a consultant to the board. I am not sure that this is good say we set most of the public salaries in the town for many years

Members talking

Granim: Legal negotiator and we wrote the policy manual for the Town and we got to know the board quite well. So, it's kind of a soft spot in our heart here. And what we have done over the years we helped about 500 towns in the state and elsewhere we take the money and we put it back into the community. And Niagara County is our home by the way. So therefore, is the biggest part and this property is a real challenge. If you know

Conti: To say the least

Granim: It's a bottomless pit money wise and if we have to go to two houses rather than three it's just so... we would do it, I think. But the point is it's crazy. It's crazy money and it's got everything anything possible that could be wrong is wrong.

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Conti: But it would be 1/3 less wrong

Granim: I also at my age I can't hear and I can't see. You have to bear with me.

Maggard: Anybody buying those properties those would certainly agree with the 3<sup>rd</sup> house not being there the middle house rather.

Conti: You're just looking at very small watt lots. That's the biggest problem that's on my head right now is that the fact you're looking at (2) 44-foot-wide lots

Granim: Yes

Conti: Which is extremely small. Like I said they both wouldn't be 88 the larger 81 would have to take little bit of the other piece of property. But I think it would be better in my own opinion is to knock down that middle one you could make the other 2 a little bit nicer it's a third less cost you would need to renovate.

Granim: We have already completely gutted the middle house

Conti: Of course

Maggard: Then it wouldn't take you much to knock it down

Granim: I know, I know. It would be really bad for us but if we have to do it we'll do it. But I hope we don't that's all I can say. By the way thanks for seeing me.

Conti: Thank you! You can come back up here. Any other questions for Gary?

Maggard: Gary I know that you have nothing to do with this but we are talking about having the middle house torn down just a little while ago. Wouldn't you see a bigger return on your investment if you had the 2 houses and had property in between. Cause right now you're looking at 3 different variances on the distances between the 3 different houses. These homes were built for the T&T plant and they go back to 1909 and so they were close together which was allowed.

Granim: I think you're point is well taken. The problem is that the policy I have had over the years is not to sell the homes. We usually rent

Conti: But what are you doing with these here?

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Granim: We like to rent we are not flipping we not investors that flip houses and so forth. All of our houses in Niagara County except for maybe 1 or 2 we have kept. So, the rest of them rental by having 3 houses the rental is important to have it for the 3 houses. If there is only 2 you only get so much rent and it's not quite enough. And so that's why the 3 houses would be better but some day of course you die at some point and the point is you want them to be able to not leave that to the child or something where they can't they have that problem on their hands that's the only reason. We rent our properties. But otherwise, you are very correct with just flipping the properties and selling then selling them your points well taken.

Maggard: Thank you

Conti: Thank you! Any other questions? Dave, Gary? Ok you can have a seat. Thank you! Anybody want to speak for or against this project please come to the microphone state your name and address.

Linda Harvey: Up until just recently I owned 20 some odd acres to the north of the properties you are talking about. And I am getting to that age that when I decided that I should down size somewhat I was told that it was 125 feet that somebody had mentioned earlier to take off lots or if I go for variances, it would be a minimum in Lewiston of 75 feet that I would have to take off. So, with that mind set when the we will call it the Hochadel property. Mr. Hochadel owned it for a number of years. Came up for discussion to be sold we kind of assumed which is not I guess a good thing to do. That the Town would step up if you will to expect at least 2 of the houses to be removed in order to kind of come into compliance I will call it I don't know. With the rest of the lots of other single houses. And That would take 2 of the houses out but then we kind of thought that maybe the Town would go the 360109 that said no houses should be on an industrial light industrial property. And back that up with fire department because they are not only close but they are so bad so dilapidated. That obviously I guess didn't happen because when Zillow I believe it was reality up them up for sale, they put them up for sale as a 7-bedroom 3-bathroom complex.

Candyce Horne: That's how they were purchased

Conti: Really

Harvey: That's how they were purchased. I don't know how you can have a complex that's not attached to anything but maybe it's grandfathered but I don't know. By Hochadel maybe it was some different coding for industrial or commercial I have no idea how that happened. But if they put 3 houses you divide that up you are correct in saying that they don't have much more than maybe 50 feet per house and they certainly are well short of the 10,000-perimeter footage.

Horne: 143

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Harvey: Well, whatever but I know that it's way short of that. My vote would be sorry nope.

Conti: Ok thank you very much! Thank you!

Maggard: Thank you!

Conti: Come state you name and address please

My name is Candyce Horne I am the current owner of 4634 Model City Road and 4628 Model City Road. I took over the property she was in indicating from her when she was ready to down size. We do have like she said a combine total of approximately 20 acres. The property that is in question is I also for the record work for the postal service. So, the property in question is marked with postal service as 4658 Model City Road we do not identify this as 3 separate residents

Conti: Really

Horne: We have just given them the convince of putting up 3 separate mailboxes for delivery purposes. Had that been forced to be continued to be used as the 7-bedroom 4 bath complex that was indicated on Zillow. They would have been forced to put up a cluster box and it would have been suite 1 suite 2 and suite 3. They have never been acknowledged as 3 separate houses through the federal government system. With that said. The people that originally owned that property were our neighbors for close to 50 years and with that we did have the added benefit of if there was a problem with any of the renters which there frequently was, they would take it into their own hands we didn't really have to deal with it other than a phone call. The rentals on that piece of property have been ..... we have had them release our horses from their pastures, we have had them stand in the property line and shoot pistols to the back, we have had Canadian tenants that informed us that all woods are public in the United States, we have had no less than 100's of issues over my parents and mine 3 generations of that property. We were looking forward to it possibly like my mother said being taken over altered in its status of the 3 dwellings we understood that it was a rental but we thought maybe there would be some alterations for that. And then the variance comes up and then we are looking at the lot issues and we have had encroachment problems just when the transfer of ownership came up. We had a wrecker from one of the local junk yards rut 53 feet of our property to get a car out of their back field. Which I have a police report on file for I have photos. We have had one of their renters not these folks but one of the previous renters in that rental unit their Pitbull came over and attacked the faces of 2 of my horses which required surgery. We have had nothing but problems with this property in conjunction to our farm. And our livelihood and our 3-generation area. I just want to irritate to my mom this is more like a statement of context type thing that we have had sufficient handling of it because we knew the people this is a whole new group of people. The rentals are not spaced in enough. We also wanted to clarify because

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I don't know lingo I don't codes as far as the letter was written when they are asking for a variance, they are not asking for additional space correct.

Conti: No

Horne: Ok. Alright so that was one of our questions. The building height that you touched on earlier was one of our notations because we knew that it was a full 2 story and we were also under the impression that they had been asked to raise their roof 3 to 4 inches to comply with code so that would make those structures even larger.

Conti: Right

Horne: I think... Oh our other just our request that this is a project that was allowed to go through we were hoping that either a boarder along the property line would be considered and or hopefully put into plans of either vegetation or fencing because at this point, we have had 2 private individuals come on to the property and leave ruts that were removing wood from trees that they have already taken down. Again, we have the record that has come through a ... Additional property. I am sure you guys are familiar with the lay out of the property. There is also a zoning boundary right at the edge of their property vs. our property they are light industrial we are business general.

Conti: I don't know how that

Horne: I know. And we are the majority of that business general property in retrospect of percentages.

Conti: Ok

Horne: So, that's just basically what we would to put out there. That we have had nothing but problems with this property and if this is something that we feel is allowed to stay as a 3-unit rental we feel that the open space that those parties that are renting those properties have now as they have in the past is still going to be an issue because it's not enough space for the kids play. So, they like to come play in our field, on our equipment and then we have to be the bad guy and have to throw them off for trespassing.

Conti: Ok

Horne: We have had plenty of issues and we just wanted to bring those to the board's attention.

Conti: Thank you very much! Come up to the microphone state your name and address.

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Good evening thank you for listening to us. I am Barbara Granim. One of the owners as well. And I would like to say

Conti: One of the owners of

Granim: VMC

Conti: Ok

Granim: Thank you so much. I'd like to reference actually today in talking with a local person across the street who was doing some work. Also speaking to one of our contractors today that people have been driving by giving all of the workers there a high 5 sign thank goodness someone is finally taking care of this property. Which was really, really kind to hear. As a small community we appreciate the fact that the folks in the surrounding area are seeing what work we are doing and appreciating it. In fact, one of the thoughts, we had today we wanted to have an open house when the houses were done, to invite the community to see what we've done to that property. In addition, I think although I understand the troubles and circumstances of prior renters, I think that's not fair to go forward to think of the kinds of people that we might rent the properties to. And how might help with outline of the property whether its landscaping or so on we understand that we are homeowners ourselves so we appreciate that.

Harvey: But we have also had problems since you have took over with people coming in tree removal

Conti: Ok please let's direct to the board please

Granim: I am sorry. So that's the comments I'd like to make. I appreciate your time.

Conti: Thank you!

Horne: I just wanted to make it very clear that we in no way are saying that the project that they are working on is not a benefit it's just the spacing. That's really our only problem and we don't see the spacing we don't see the problems that we are having on our property getting any better unless the spacing issue is fixed.

Conti: Ok. Thank you! Anybody else want to speak for or against this project?

Seaman: I have a question

Conti: Yes Mr. Seaman

Seaman: You have multiple properties throughout the state or what?

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Granim: Yes

Seaman: Where do you reside

Granim: Niagara Falls

Seaman: The sole reason that you wanted to... them into individual unit is for future sales something you don't intend to do at the present time

Mrs. Granim: That's correct

Mr. Granim: For rental purposes one day with any property.... We basically may have to sell (not at the microphone can not hear what he is saying)

Seaman: Are you indicating that in order to receive a reasonable return you need 3 units?

Conti: Come on up to the microphone. Come on up here to the microphone please we have to address the board through the microphone.

Mr. Granim: I am truly sorry I can't hear very well

Seaman: I understand perfectly. You are indicating if you don't have the 3 buildings you can't make a reasonable return?

Mr. Granim: I don't even know what this is going to cost. Because of the nature. It's a very unique project. And I don't know what it's going to cost so far, it's been very expensive. And so, I think I believe 3 is better than 2. It's only a gut feeling it's not like I know the answer to that. And I think a very good point that was made a short while ago. On having two and suppose to be worth more money that would make sense but my feeling is that. I don't want to stop the project if it's not meant to be that way then just the fact that I am very scared about the thing. I am not really what they call real estate goos. So, I can see what has happened already. And by the way to make this thing work we have to meet some codes and all that. Like we had to redo the back already putting foundation wasn't good enough. We didn't know that before. So, what I am saying is that each step along the way is another setback. I can't tell you what we need I believe that my gut feeling is that it would be good to have 3 places.

Seaman: On the middle one that you've already gutted does it have a basement

Granim's: No

Conti: Their slabs? When do you purchase these building?

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Mr. Granim: I think about a year ago. We really no there were some tenants there. That I understand were not so great

Conti: Was this purchased through an auction?

Mr. Granim: It was a state

Conti: A state sell

Mr. Granim: State sale through a realtor it may have been an auction. We went through a realtor at the time. But our philosophy has always been over 56 years in business we take our consulting money and we put it into the community. And we are not looking to make money, money but we do want to be able to at least pay our bill. And put a little surplus aside in case something comes up. Is really where we are. 50 homes in Niagara Falls. And I think there are so many of them in that entire town. People need rentals

Members/everyone talking

Seaman: Charlie you don't have to tell us if you don't want to. But it is public record information any way. What did you pay for those?

Conti: It's one property by the way. This is only one property still. This is only one piece of property

Seaman: Right

Granim: 120,000

Conti: So, what's in front of this board tonight is just approving the 2 side yard variances. Not to split the property up. It's all I guess if you get the variances then you are going to try to though to split the property up. Correct?

Giusiana: Yes

Conti: Right Gary, right

Giusiana: You called me Gary my name is David Giusiana.

Conti: I sorry David. I called you Gary I am sorry

Giusiana: You called me Gary again

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Conti: I was apologizing. So, it is one piece of property.

Giusiana: Correct

Conti: So, what you are looking for tonight is to say can we have these variances if we get these variances of the side yard setback then you're going to the board the town and say I want to split up these properties into this, this and this.

Giusiana: Right

Members talking

Giusiana: So, the process would be going to planning board and getting the subdivision. At that point a denial of the subdivision based on either the lack of frontage or lack square footage then it would kick it back to this board again for consideration. Whether in fact but right now no.

Conti: So right now, is all your looking for is on the assumption that you're going to be able to split this property up can we have these side yard setbacks. Any other questions for David?

Giusiana: Just to clarify there are 3 active building permits for the 3 building that are allowing my client to fully renovate them and they are fully grandfathered in to being all rentable individual units. A credible source information it's not

Conti: Ok

Giusiana: The actual character in use will not change anything the only issue about the new property lines is the creation of these new entities of which control the ownership of the properties

Conti: The sides going through the Town to split the 3 properties up you also have to go thought the federal government to get addresses for all 3 properties.

Giusiana: Correct. Then again once the subdivision is created the map covers files in the county then address in conjunction with Mr. Masters. As any property that is every subdivided a new address is given to the new property.

Conti: Ok. Any questions more for Dave? Thanks. Yes, again state your name and address

John Murnyack 716 Ridge Road. Just listening to all this discussion, I think this is really premature for what their asking. I think you should finish this renovation and bring it all into

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compliance with the code where they give you certificates of occupancy for the 3 units and at that point when there is a finished project that can be addressed as do we want to allow them to divide them into 3 separate lots.

Conti: But financially to the people that are doing it and we turned around finish all up and make it all beautiful and then we say no you can't do it.

Murnyack: Because right now the way they bought it. It was units on one parcel of land. That was rental property. That's the way they bought it. They didn't buy it as 3 separate lots. All I am suggesting is that let them finish it as they completed project then address whether or not it would make sense for the Town to allow them

Conti: But all that's in front of this board is the approval of the side yard setbacks if they can split it. So none of that rest of the stuff that your saying is not in front of us.

Murnyack: They don't need that now.

Conti: But that's

Murnyack: In the future to divide it into 3 separate lots

Conti: But what's in front of this board right now is that. That's all we have to vote on what they want is this. This is what they put in their application doesn't matter what you're thinking. Right now, what's in the application what's in front of this board right now is the side yard setbacks of those 3 lots that's all that's in front of us. Not anything else. We can't tell them to anything else

Murnyack: Guess what all that discussion that's been brought into this I understand what your saying ok but you're allowing that variance to go through at this early stage of what they are doing down there.

Conti: We haven't voted on anything

Maggard: We haven't done anything

Murnyack: I am just saying. I know you haven't voted that's why I am bringing my point up is that you don't have to approve at this

Seaman: If I had to make a recommendation is that you keep the hearing open. You can establish conditions to go with a variance if you decided to grant a variance. When they go to the planning board, they are going to have to have a site plan to show improvements they are going

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to have to show how or where they are going to put fences and decorative fencing and that type of thing. I think that could weigh on whether you find how the wait goes and have it more flushed out.

Conti: But if we depending on what we decided up here will determine if they are going to go to the planning board or not. If we just table it, what are they going to go to the planning board with if the planning board doesn't know what we are going to do.

Seaman: That was just a recommendation

Conti: Right ok. Any other comments. Come up to the microphone

Linda Harvey: When you say side yard setbacks. Does that indicate like they are asking for a variance for that for that I guess I don't understand all this

Conti: So, in other words you have to have so many feet from your house to the lot line

Harvey: Correct

Conti: Depending on everyone is a little different this is a light industrial so you have to have the height of the house has got to be the same distance to the lot line

Harvey: But if they are asking for a variance for side yard side whatever can that go past what their survey now says

Conti: I am not sure if I understand what you are saying

Harvey: There is a survey line

Heuck: Property line

Conti: Property line it can't go beyond that

Harvey: It cannot go past the

Conti: No, no, no, no

Harvey: Orange stickers. So, I don't know how much space is in between their surveyed lot line where the kids have been that first house from my property and if that's not going to change. Cause that lot line stands

Conti: The lot line is not changing at all

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Harvey: Ok

Conti: They are not looking at taking property

Harvey: The problem has been that the people that have been in there I am not saying that these people are the same or anything else. The people that have been in there as tenants so much have seem to have an attitude that what is our is theirs as well.

Horne: Mom, mom you provided that information already

Harvey: Ok

Giusiana: The set back says on this property compared to their property 15.7 and 16 feet it's the least of the variances.

Conti: Right

Heuck: Step up to the microphone

Giusiana: One on the things the attorney was talking about

Heuck: If you are discussing step up to the microphone

Conti: David come up

Giusiana: You can call me Gary again if you want

Conti: I said Dave

Giusiana: I said you can call me. But the adjacent properties are offering which one of the things that establishment of a fence to help buffer in the control of the use of the property would satisfy their concern again hopefully the new owners

Horne: Or biggest concern is the north side property line of the north house because that's what directly affects us it's also the boarder of those 2 zoned districts. It's where they cross over

Conti: Ok

Horne: And that has been encroached upon regularly

Giusiana: Fence

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Conti: That would be part of it. Anyone else want to speak for or against this project?

Maggard: I think they have done enough

Conti: **Ok we are closing the meeting. Any discussion amongst the board? Anyone want to make a motion?**

Maggard: I will make a motion that I do not agree with this

Conti: **Ok so your motion is to deny the**

Maggard: **Deny it**

Seaman: I would recommend that you address findings

Conti: **Just go through the findings Marge**

Maggard: **Findings?**

Conti: **Like you did last time**

Maggard: **The one second. We have 3 different setbacks with 3 different houses. We have a setback it's very difficult on the south side 4656 we have got a setback of 15.8 and I am not sure about the height of the building**

Conti: **He said they are 22-23 feet**

Maggard: **It would be 5 feet less now that's not substantial. But the other one between the first house on the south side and the middle house is both calling for 11.1 that's divided that lot line right in half so that's substantial in my eyes. And the one from the middle to the north, the north side house 7 foot 9 inches and the one in the middle is 15.6 so the one north side substantial and that's why I see this variance being denied.**

Conti: **Can I have a second Gary**

Heuck: **I will second it.**

Conti: **All in favor of the denial of the variance say AYE**

Members: **AYE**

Conti: **Opposed. Lisa pull the Board**

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**Wisnieski: Joseph Conti: AYE, Gary Heuck: AYE, Marjorie Maggard: AYE and David Warnick: AYE**

**Conti: It's been DENIED. Thank you! Anyone else like to speak at this point? May I have a motion to close the meeting and go home**

**Heuck: Motion to close**

**Warnick: Second**

**Conti: All in favor AYE. Meeting is adjourned**

Respectfully Submitted by

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Lisa Wisnieski  
Building Dept Clerk

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Joseph Conti  
Chairman