

February 6, 2019

Zoning Board of Appeals

Proceedings by Authority

State of New York,
City of Jamestown, ss:
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, February 6, 2019 at 3:30 p.m.

Members Present: Ellen Ditonto, Peter Larson, Sally Martinez, Patricia Calanni, Jim Olson

Members Absent: Judith Sandson

Others Present: Larry Scalise

Mrs. Ditonto called the meeting to order.

Mrs. Ditonto: We have three petitions on our agenda today. We will take them one at a time. A couple of housekeeping items for people who are either petitioners or guests, it will take four affirmative votes to get any variance request passed. We have five members here today. When it's time for your petition to be read, we'll have the clerk read that and then someone who's here to represent the petitioner can go to the middle here and go to the microphone, state your name and home address and then tell us a little bit more about the request for an area variance or a use variance or both in some cases, today. We will have time for the members of the board to ask questions and then time for anyone from the public to also speak on the petition; either in favor or in opposition to it. Public comments are limited to five minutes or less, the person has to go to the microphone on either the left or the right of the venue here and state their name and home address.

JANICE ROWAN 475 WILLARD STREET – 388.05-5-14

The petition of Janice Rowan 108 Park Avenue, Warren, PA, for an area variance to erect a 30' x 30' garage in the rear yard at 475 Willard Street, Jamestown, NY, parcel 388.05-5-14. (Section 300-0317 Accessory Structures: the maximum square footage for a garage is 720 sq ft and the proposed is 900 sq ft.)

Mrs. Ditonto: Again, if you're going to speak, we have to have name and home address because we do record these and transcribe them, so have the microphone close to you and you can tell us a little bit more about the reason for your request.

Ms. Rowan: Janice Rowan, 108 Park Avenue, that's where I'm at now. I bought a house in Jamestown; 475 Willard Street and I'd like to put a garage up and that's what that's about, putting a garage up.

Mr. Hurley: Michael Hurley at 475 Willard Street. There's no garage there and I feel we need one and, for the stuff we have, it wouldn't be big enough, the other one wouldn't be.

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Mrs. Ditonto: But it's my understanding there is no accessory structure on the property at this point.

Ms. Rowan: There's no garage, no.

Mrs. Ditonto: Did you want to talk about the reason for the request because it's larger than the allowed structure size.

Mr. Hurley: We have two vehicles, two riding lawnmowers, a four-wheeler. I have a lot of tools, a farm tractor. It's just a lot and I don't want it outside being ruined.

Ms. Rowan: We have woodworking tools, a table saw. And our basement, we can't put anything in it; it's a partial basement and it's not really high, you have to bend over and walk in it.

Mr. Larson: So, it sounds like your reasonable alternative would have been to build a maximum-sized garage and then a secondary shed, so this saves you from having to build a second shed.

Mrs. Ditonto: Any other questions from members of the board?

Mr. Olson: Larry is there any setback requirement on the rear yard? It shows something on the side yard.

Mr. Scalise: No, having the discussion, we're going to be more than 10' from any property line where they're going to put it. This is an extremely large parcel, it goes back almost 1300 feet.

Mr. Olson: Right; skinny and long.

Mr. Scalise: And I made it clear that we needed at least the 5'. He stated that he intended to have it further away just to center it up on the property.

Mr. Hurley: It's about 60' from the neighbors.

Mr. Olson: The one side, yes, from the Purpuras or Joe Leonard's old house.

Mr. Hurley: I don't know their name.

Mrs. Ditonto: Questions, Ms. Calanni?

Ms. Calanni: Yes, thank you. It says that your address is Park Avenue in Warren, but you are living...

Ms. Rowan: I'm going to move.

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- Ms. Calanni: Okay, so right now the property is not your residence.
- Ms. Rowan: No, I'm not there now. I've had problem with my elderly parents, so I'm waiting.
- Mrs. Ditonto: When do you expect to build this if it's approved?
- Ms. Rowan: This spring.
- Ms. Martinez: You're building it yourselves?
- Ms. Rowan: Yes.
- Mr. Olson: Larry are there going to be formal plans versus this?
- Mr. Scalise: I'm going to work with him to refine it a little more and get it to where I can issue a permit. To be honest, it's closer than it looks and I'll work with him and go through and get the sizes of beams, counts, so forth.
- Mr. Olson: What's the outside texture going to be?
- Mr. Hurley: Barnboard.
- Mr. Olson: Barnboard. More of a pole barn type of thing versus a foundation?
- Mr. Hurley: No, no foundation.
- Ms. Martinez: And the doors for the vehicles are going to open along the side?
- Mr. Hurley: Overhead doors.
- Ms. Martinez: Are you doing it across like this, or are you doing it with the doors on the side? If your house is here, is the garage going to have doors here or on the side?
- Mr. Hurley: The house would be right here and the garage would be in back of the house. The doors would be in front. So, we can drive in the driveway and drive right in to them.
- Mrs. Ditonto: Other questions? I have one clarification. You talked about your woodworking equipment, farm tractor. This is not going to have any kind of a commercial operation run out of it, is it?
- Mr. Hurley: No, it's all personal.
- Ms. Martinez: I do notice the attic is 7' high? Does it need to be that high or can it be reduced?

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Mr. Hurley: We want it for a little bit of storage if possible.

Ms. Martinez: Okay. So, you're going to have a stairway going up?

Mr. Hurley: Yes.

Mrs. Ditonto: Can you also clarify that this isn't going to be for animals?

Ms. Rowan: No animals.

Mrs. Ditonto: Any other questions? Seeing none, it's time for members of the public. If there's anyone here who would like to speak. You can go to the microphone, state your name and address. Go to the microphone, please, state your home address along with your name.

Mr. Purpura: Anthony Purpura, 493 Willard Street, Jamestown. Mike has moved in and I see what he's doing. We've been talking a lot and I'm okay with it totally. I believe he's tried to improve the situation that he has there and I think what he has expressed to me, I'm not concerned about it whatsoever.

Mrs. Ditonto: Thank you very much. Is there anyone else who wishes to speak? Seeing none, it's time for us to look at correspondence. There are two letters for this, so we'll have the clerk read those.

Mr. Thomas: Thank you. Letter dated January 4, 2019. To whom it May Concern, I understand that an issue has come up regarding the building of a garage on the next-door property belonging to Janice Rowan. I want it known that I have no objections or concerns regarding the building or placement of said garage or any other structure on Ms. Rowan's property. If code enforcement or any other city entity has any questions for me, I would be most obliging. William Brudz, 496 Willard Street.

Letter dated January 15, 2019. To Whom it May Concern,
Our next-door neighbor, Janice Rowan, at 475 Willard Street is planning to build a garage on her property. She has kept us informed of her plans for the completion of the garage. We have no objection to the location or construction of her garage on the property or with any other structure she has on her property. Please feel free to contact us with any questions you may have. Mr. Purpura and Sandra L. Purpura of 493 Willard Street.

Mrs. Ditonto: Thank you. Are there any further questions for the Rowans? Seeing none, I would be looking for a motion on the request for an area variance at 475 Willard to allow for a garage size that's 900 square feet which is in excess of the normally allowed.

Ms. Martinez moved to approve the petition. Seconded by Mr. Larson.

Carried: 6 – 0

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LISA SCHMIDTFRERICK-MILLER, 557 FALCONER STREET – 371.09-6-17.2, 18.2, 19.2

The petition of Lisa Schmidfrerick-Miller, 2373 Erickson Road, Ashville, NY, for (A) a use variance operate a part-time therapeutic massage practice at 557 Falconer Street, parcels 371.09-6-17.2, 18.2 and 19.2. (Section 300-0305 R1 Single Family Residential: a professional office is not a permitted use in the R1 district. The first permitted district is the R-C district.)

(B) an area variance to locate a 18’x18’driveway and parking area off Dunn Avenue at 557 Falconer Street, parcels 371.09-6-17.2, 18.2 and 19.2. (Section 300-0507 Parking in residential districts: Parking in the R1 district is only allowed in rear yards. Proposed area is an exterior side yard, which is treated as a front yard.

Mrs. Ditonto: Please give us your name and home address and tell us a little bit about your request.

Ms. Schmidfrerick-Miller: My name is Lisa Schmidfrerick-Miller. I reside at 2373 Erickson Road in Ashville New York and I purchased this property in August of this year with the hope of selling our property of Ashville and needing a place to stay, but also because it’s a historic property. There were about 2500 of these pre-fabricated metal homes built in the United States. This is one of less than 100 remaining in New York State. I’ve just always been fascinated with them and am hoping to preserve this. With our home not being sold, I’m looking at other possible uses for it. As far as the first request, I have a part-time therapeutic massage practice. I don’t see more than, at most, 6 clients a week anymore. Most of my work is consulting work with the Chautauqua County Health Department and it seemed like an interim use for that. I don’t anticipate that being a permanent use and I don’t anticipate the numbers, the amount of that business growing at this point. The area is surrounded with JCC on the one side, there’s a parking lot across the street, the Woodlawn Motel is kitty corner from this property and there are rental properties; student rentals, on the east side of that. There is a 3-bay garage; Lance Hedlund’s garage behind the property, so there’s really no immediate nearby residential family-type of neighbors there either. I don’t feel that it would be really detrimental to that area. It wouldn’t significantly change the character of the area, there wouldn’t be traffic impacts. I think the impact would be minimal.

Mrs. Ditonto: Do you want to also talk about the building of the parking area?

Ms. Schmidfrerick-Miller Sure. Because the property is a corner lot, I wasn’t aware that parking needed to be set off to the side and in fact Mr. Hedlund told me, when we purchased the property, he had checked with the city about creating a curb cut on either Dunn or Falconer Street. Then it came to my attention, Mr. Scalise informed me that they are both considered front lots. The problem that we would have with putting a driveway on Falconer Street is that it gets very close to a very busy intersection. The traffic count on that road is not excessively high, but it gets busy at different periods of time during the time with traffic from JCC. So, I feel that presents a safety concern; trying to get in and out of – there is space. I’ve got a map here. There is space, this is the property, this is the Falconer Street intersection. Our property line goes approximately to right here, so while there’s space there I think that’s a pretty dangerous location to put a driveway for people and myself even, going in or out of that; in particular, making a left

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hand turn into that property. There's no sidewalk on Dunn and there are driveways. There's a driveway across the street into this property, another one right here. They are short driveways. I know it would come a little bit close to the house, but I feel that it's the best and safest location for that. And the way the house is sited, it's clearly a front yard onto Falconer Street. I think it's kind of attractive, so that really appears to be more of a side yard on the Dunn Avenue side as well.

Ms. Calanni: Can we get a closer look at those? And exactly where the parking is proposed? How many cars are you proposing to fit in that area?

Mr. Scalise: We talked about two. There would be a need for two; one for somebody coming for therapy and a parking place for herself. The reason this was never an issue previously is the house and the 3-bay garage were all owned by the same people and the property operated as one. But, if you know Lance Hedlund, you know he's got his snowmobiles, he's got his fishing boat, he's got a lot of toys and so he kept the garage in order to keep those in and now we have a problem that nobody foresaw.

Ms. Schmidfrerick-Miller: He not only uses the whole garage, he added a shed to the one side.

Mrs. Ditonto: When I looked at the property, I wondered.

Ms. Schmidfrerick-Miller: He's been generous about if I'm offloading things; I've been doing some work on the house. It's a 70-year-old house that hadn't had any updates, so there's a significant amount of updating to be done, while trying to maintain the kind of historic interior, but he lets me park on that, but that's not a long-term solution.

Mrs. Ditonto: Questions from members of the board.

Mr. Olson: What hours; do you expect to have clients during the day, Lisa, or at night as well?

Ms. Schmidfrerick-Miller: Typically, late afternoon. Generally, between the hours of 1:00 and I like to be finished by 5:00 or 5:30.

Mr. Olson: Okay. Larry is she going to have go through a staff site plan for the parking lot?

Mr. Scalise: Yes, we would look at that. I can't remember for sure if I showed it to the new planner or not, but I did have a discussion with our old planner who has retired, so that really doesn't help.

Mrs. Ditonto: Let me just ask again; that would be parking for just two vehicles? Is that what you would anticipate on the side, on Dunn?

Ms. Schmidfrerick-Miller: Yes.

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Mrs. Ditonto: And, as you know, for a variance request, we have to go through a series of checks. One of them is, is this going to change the character of the neighborhood. You stated you didn't think it would because there are other entities; both rental units and the college there.

Ms. Schmidtfrerick-Miller: Yes, there's an additional professional office. The surveying company is the next block up. There's already that type of use on Falconer Street.

Mrs. Ditonto: We had that as a variance request a couple of years ago.

Mr. Larson: And of course, the next block over, on Dunn is Second Street, so it's not far from the commercial district.

Ms. Schmidtfrerick-Miller: Yes, it's close.

Mrs. Ditonto: You did say you didn't think that was going to be a long-term need. I take it you're not thinking of keeping the massage practice there if you move there?

Ms. Schmidtfrerick-Miller: No, if I move there, I wouldn't have the massage practice there. I'm just looking to – I'm paying rent at an office downtown, I'm trying to get some work done over there. The other option would be to use it as a rental property, which I'd really prefer not to if I could afford that.

Mr. Larson: And then you'd have the same issue with the off-street parking.

Ms. Schmidtfrerick-Miller: And I need the parking regardless, so whether it's for one car or two. I shouldn't say I need it, I would like it.

Mr. Olson: Do you think when you move there, you'd add a garage on the other side of the building?

Ms. Schmidtfrerick-Miller: No, I don't think so. I suspect if we move there and kept it long-term that it would be seasonal.

Mrs. Ditonto: A question for you Larry, is there a way that we can limit it to this type? I'm trying to remember if we've done that before; this type of commercial practice so that if she determines she doesn't want to do it anymore we can't have somebody come in there and do something else?

Mr. Scalise: You could do it as a professional office. You could say as a medical office, that would be narrowing the scope. You're not specifically cased per person dependent on that, so she could sell it to another massage therapist, a chiropractor.

Ms. Schmidtfrerick-Miller: There's not room for parking for any use greater than that. My practice is small enough that I never have people waiting. In fact, I don't have a waiting area in the building that I'm using right now. There's really only room to park two vehicles on the one side I believe.

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Mrs. Ditonto: We just have to look at it long-term because once we grant the variance so if we try to narrow it so that we don't have a tattoo parlor that could show up. That's the concern that we have. Other questions from members of the board? Seeing none, I don't think there's anyone in the audience that's here to speak on this. Are there any correspondence items?

Mr. Thomas: I've received no correspondence.

Mrs. Ditonto: Okay. This is a unique situation because we have both a use variance and an area variance. We can either take them as two separate motions or we can take them together. We'd be looking for approval for the use variance to operate the part-time therapeutic massage practice and the area variance to locate the driveway off of the Dunn Avenue side.

Mr. Larson made the motion to approve the use variance limiting it only to medical practices as a professional medical office. Mr. Larson also moved to approve the area variance for the parking area as described by Ms. Seconded by Mr. Olson.

Carried: 6 – 0

GERALD HEALD, 18 KING STREET – 387.12-2-36

The petition of Gerald Heald, 13 Juliet Street, Jamestown, NY, for (A) a use variance to construct a 34'x32' pole barn-style garage with a 10'x32' lean to and (B) an area variance as there is no primary use structure on the parcel at 18 King Street, parcel 387.12-2-36. (Section 300-0317 Accessory Structures: An accessory use requires a permitted primary use, in this case a one or two family residence, and the maximum permitted area for a garage is 720 sq ft, the proposed is 1088 sq. ft.)

Mrs. Ditonto: Thank you. Please introduce yourself; name and home address and tell us a little bit about this request.

Mr. Heald: My name is Gerry Heald. I live at 13 Juliet Street here in Jamestown. I'm looking to build this garage storage area because I have some toys of my own like most guys do and I'm also looking to, in the future, of maybe getting, possibly, a classic car or two and that's why I'd like to have it this size; to be able to squeeze two cars in.

Mrs. Ditonto: You don't live adjacent to this property?

Mr. Heald: It's less than five minutes away.

Mr. Olson: When did you purchase it?

Mr. Heald: I purchased this right after Christmas, about 6 or 8 weeks ago.

Mr. Olson: From a private owner?

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Mr. Heald: Yes. He bought it through a tax auction and then he sold it to me.

Mr. Larson: So, it's currently just an empty parcel?

Mr. Heald: Correct, it's a vacant lot right now. I saw pictures where there used to be a house. I don't know if it burned or what the reasons are that it's not there now, but I saw that there used to be a house.

Mrs. Ditonto: And is there any possibility that you could modify your request to put some kind of an apartment or something in this structure? We've had others request this same kind of thing on property where there wasn't a residence and that seemed to make it possible to build a large garage. I don't know, are you willing to think about that?

Mr. Heald: That hadn't occurred to me. It's possible. I'd have to rethink it, but as of right now, I would say no. The lean-to section of it, I don't know if I'm going to do that. In the simplest terms, it's going to be what my wallet says; if I have enough money to do that, add the lean-to on it.

Mrs. Ditonto: And what would that be for? More storage?

Mr. Heald: Just some outdoor storage. Just things to keep under protection.

Ms. Martinez: Would you be renting it or would it be storage for your...

Mr. Heald: No, it would be for my use.

Mrs. Ditonto: Again, this is all for your private work. There wouldn't be any commercial business that would be taking place here?

Mr. Heald: Correct. My own private use.

Mrs. Ditonto: And access? You would have to build some kind of a driveway or are you going to put asphalt?

Mr. Heald: Correct. There is no driveway there now. I would have to have a driveway put in.

Mrs. Ditonto: So, you'd have to have a curb cut.

Mr. Heald: Correct.

Mrs. Ditonto: Questions?

Ms. Martinez: Would be fencing as well since it's not adjacent to your house or anything like that?

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Mr. Heald: I hadn't planned on putting fences up. I am planning to put security cameras up because, like you say, it's not near my house. I thought that security cameras would take care of that issue.

Mr. Larson: To your knowledge is there any, and maybe this is also a question for Larry, is there any other similar uses in this neighborhood of simply storage structures on an otherwise residential plot of land?

Mr. Scalise: There may be some. I don't know of any that have been built recently. If you go a little further up to the top of Sampson, there's a couple large garages, but there's residences on there. We have done a few in town but for the most part, it's the exception, not the rule.

Mr. Larson: Obviously if this were an adjacent lot to Mr. Heald's house or something of that nature, it would be a different story.

Mr. Scalise: No, we would just combine parcels and make it go away and he wouldn't be here. I'd have written him a permit.

Ms. Martinez: Is it a buildable lot Larry?

Mr. Scalise: Even a substandard lot, which I believe this one is, at 60 x 60. You could build a single-family home if you honored all the setbacks. You could, but it is a substandard lot.

Ms. Camay: Will you have utilities?

Mr. Heald: Yes. I called the city earlier and they said that all the utilities are still there. I do plan on putting a half bath in there.

Mr. Larson: My question, I guess again for Larry, what would be the minimum requirements to call this a permitted use of some kind of apartment structure, a single small apartment?

Mr. Scalise: I can't remember off the top of my head, the minimum sized room. He could create an efficiency apartment in there. He'd just have to have a bathroom, some type of kitchen and then he could just have an area big enough for a bed. Just one room, basically.

Mr. Larson: Even a pullout or a futon-style.

Mr. Scalise: Yes. There's minimum sizes and off the top of my head I think 250 sq. ft. but I can't say for sure without checking the code book.

Mrs. Ditonto: We did that on Baker Street.

Mr. Scalise: Yes. We did that one where the gentleman put an apartment in. I believe it was a two-bedroom and then the proper fire separations and all that, so we did do that one up

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there and I believe did come before us because if I remember, it was too close to property lines or something.

Mrs. Ditonto: When you purchased the property, it was your intent to just put a standalone barn on it. Is that why you purchased it? So, you weren't aware of the zoning requirement that you couldn't have a standalone accessory structure without a house or some kind of a residence.

Mr. Heald: No, I didn't know.

Ms. Camay: What is the plot – if I'm looking at this, this is the where the garage would be, right there? So, what is behind? 220 is a house is that just a yard?

Mr. Scalise: That's just a yard that comes all the way down. I believe at some point in time there was another house on the Barrows side that's been removed and now it's just one great big parcel that goes from Allen to Barrows.

Mr. Larson: And that stub of Barrows, it says unpaved. Is that a paper street? Does it actually dead-end there?

Mr. Scalise: Lexington actually does exist on paper, but it just looks like a dirt path if you drove by.

Mrs. Ditonto: Mr. Heald, have you talked to the neighbors, the owners in that area at all to see if they would...

Mr. Heald: No, I have not. I'm just guessing the house below me is a rental and I know the lot behind me has a house that's way at the bottom of the hill.

Mrs. Ditonto: It's empty, yes.

Ms. Martinez: Was there any correspondence on this?

Mr. Thomas: No, I received no correspondence.

Ms. Martinez: Okay and no neighbors have come to say anything.

Mrs. Ditonto: Is there a possibility that you could make the garage slightly smaller? You're asking us not only to build a garage on property where there's no residential structure, but also to make it quite a bit larger than is allowed. Could you make it any smaller and still do what you wanted to do in terms of the storage of your vehicles?

Mr. Heald: I could lose the lean-to, the 10' x 34'. That would be easy to make the adjustment to maybe downsize.

Mrs. Ditonto: But that's not included in the 1088 square feet.

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Mr. Scalise: Yes, it is.

Mrs. Ditonto: Okay so that is included.

Mr. Scalise: He was asking and I said ask for big because we can pare it down, but we can't go the other direction.

Mrs. Ditonto: Okay, so if we remove the lean-to which it looks like on this is 10' x 32'.

Mr. Thomas: That would be 24' x 32'.

Mr. Scalise: So, you get to 760'.

Mrs. Ditonto: So that would be closer to the 720'.

Mr. Scalise: Yes; 40 square feet larger.

Ms. Camay: Well, 34' x 32' is 1088'.

Mr. Thomas: Yes, and then we're talking about removing the 10' x 32' lean-to so then it's 24' x 32'.

Mrs. Ditonto: 24' x 32' which gets us closer to the 720'; it's 768'. Okay, any other questions or comments?

Ms. Martinez: You're not storing any dangerous stuff in there?

Mr. Heald: No.

Ms. Calanni: When would you plan on building?

Mr. Heald: It would be during the springtime; that would be the earliest.

Mrs. Ditonto: The variance request would only be for...

Mr. Scalise: He only has 6 months to obtain a permit and the permit can be up to a year. He's got 18 months from today to get it done.

Mrs. Ditonto: There's no one in the audience who would be speaking in favor or opposition to this. We have no correspondence on this. So, if there are no further questions, I would be looking for a motion. Again, this is a unique situation, both an area and the use variance. Although the variance request on the size is now down to 768 square feet, if we removed the lean-to, which would make it just slightly over the 720 square feet that's allowed. And then the bigger issue is the concern that there would be a garage on a standalone property

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where there is no residence. So, it could be a combination motion for both a use variance and an area variance.

Mr. Olson: My main concern is just not living in that neighborhood. I think we've always been very careful of that here, regarding if you're in the neighborhood or at least nearby. That's my biggest concern.

Mrs. Ditonto: And I share that. It's not adjacent to the property owner's home or anything like that.

Mr. Olson: Correct.

Mrs. Ditonto: Anyone willing to make a motion?

Ms. Martinez made the motion to approve the petition. Seconded by Ms. Calanni.

Mrs. Ditonto: The motion is for the area variance and the use variance at 18 King Street for an accessory structure without a primary residence and a garage at 768 square feet with no lean-to.

Mr. Larson: If I could just comment Chairwoman Ditonto if I could. It's about .7 miles driving. It's about a 2-minute drive. It is very close; not adjacent, not in the neighborhood, but close.

Carried: 4 – 2 (Olson, Ditonto nay)

There being no further business, the meeting was adjourned.

Todd M. Thomas, Secretary
Zoning Board of Appeals