

September 6, 2006

Zoning Board of Appeals

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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, September 6, 2006 at 3:30 p.m.

Members Present: Timothy Thomas, Suzanne B. Howig, Richard Hanson and Ellen Ditonto

Members Absent: Chairwoman Tammy Donato, Charles Nazzaro and Mary Lou Edwards

Others Present: Director of Financial Services/City Clerk James N. Olson, Zoning Officer Lawrence Scalise and Corporation Counsel Marilyn Fiore-Nieves

Suzanne Howig called the meeting to order.

C.H.R.I.C., 2 ACADEMY STREET, MAYVILLE, NY

The Secretary read the petition of C.H.R.I.C., 2 Academy Street, Mayville, New York 14757 representing owner Maria Ramos at 116 Falconer Street, Jamestown for an area variance to allow a wheelchair ramp to be built at 116 Falconer Street, Jamestown in an R-2 Zone within approximately 5 ft. of the city sidewalk. Ramp will run across front of property. No other course possible to allow disabled resident to exit. (Section 300-0306 R-2 Two-Family Residential District. The required front yard setback is 25' - proposed ramp is 5'± from the property line.)

???? Ramos, my sister is Maria Ramos of 116 Falconer Street: My dad is handicapped and is in a wheelchair and that's why we want to build the ramp. Inaudible.....

Ms. Ditonto: Can you tell me what you're going to build it out of – what the material will be?

Mr. Ramos: One of the problems is that they've got funds, I think at the hospital they helped my dad – they're the ones that are going to be building it...

Ms. Ditonto: Okay.

Mr. Ramos: ...inaudible...so all we need is just....

Mr. Scalise: I can probably answer that question. I've met with people from C.H.R.I.C. and it's a wooden ramp – I mean you've probably seen several of them throughout town. It's typical – it's been brought before the Board before – it's made out of wood and it is easily removable. If Mr. Ramos decided to retire to Florida and move away, the ramp can easily be removed. I did meet with the people from C.H.R.I.C.. There is no other place to put the ramp. We go to every effort to avoid doing this if possible and in this case, there just isn't room to put it anyplace else.

Ms. Ditonto: This is a two-family home, isn't it?

Mr. Ramos: Yes.

Ms. Ditonto: ...so it won't impact the other tenant in terms of them getting into...

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Mr. Ramos: No, because the one that lives upstairs is my dad's daughter – she's the one that owns the house.

Ms. Ditonto: Okay.

Mr. Ramos: They're not going to have any problem with it.

Ms. Howig: Is there anybody else in the room that wishes to talk about this petition?

Mr. Thomas: I would move that we grant the petition of Maria Ramos of 116 Falconer Street for an area variance to allow the wheelchair ramp to be built at 116 Falconer Street.

Mr. Hanson: I second the motion.

Carried: 4 ayes, 0 nays

RICARDO and RITA HERNANDEZ, 123 EUCLID AVENUE

The Secretary read the petition of Ricardo and Rita Hernandez, 123 Euclid Ave., Jamestown, New York 14701 representing owner Harold Jaffe, 132½ Euclid Ave., Jamestown, New York for a use variance to demolish the existing buildings and construct a drive-thru coffee/convenience store at 1065 and 1065½ North Main Street, two vacant lots on North Main Street, one vacant lot on West 16<sup>th</sup> Street and one vacant lot on West 17<sup>th</sup> Street, (370.18-2-24, 26, 27, 28, 29 and 68) in an R-2 zone. Mr. and Mrs. Hernandez have an option to purchase the properties. (Section 300-0306 R-2 Two-Family Residential District, A restaurant/convenience store is not a permitted use in the R-2 District. The first permitted district for a convenience store is the C-1 district. The first permitted district for a restaurant is the C-2 district.)

Bruce Turner, Turner Brokers: We're the broker that has the purchase offer on the property and I've given you the information with the maps. This is a brief sketch because, of course, at this point we realize that it's all in your hands as to what you might like to do with this so we haven't gone to the architects or that type of thing to develop the costs that would be involved. We do also have an asbestos report – did I give you one of those? Okay. I guess it's pretty simple, this is what we'd like to do and it's up to you people to decide, I guess, whether something is good for the City at this point, or.....Do you have any questions of me?

Ms. Ditonto: Can you tell us, is this a chain operation?

Mr. Turner: No. This is simply a couple that would be building it with their own funds – nothing to do with a chain.

Ms. Ditonto: And that's a steep property grade? Will you be grading that up?

Mr. Turner: I think you would have to. I was down reviewing it myself today and you've got quite a slope coming down. I think there would be, in the final site plan, some extensive work there.

Ms. Ditonto: In your preliminary plans here, it looks like it will go around.....

Mr. Turner: The thought here is that by doing it this way, it would not disrupt residents over here. It would bring the traffic down 17<sup>th</sup> in front of all these homes. We were

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trying to lay it out so it would be maybe more palatable to ?????? But, again, this is preliminary – we're interested in hearing your responses as to whether you'd like us to go over them further, or ??????

Mr. Thomas: So what is it exactly they want to do there? I mean, it says, "convenience store/restaurant." Are you talking about.....

Katie Pellerito, 17 Westwood Drive, Jamestown, Sales Agent for Turner Brokers, Richard Hernandez, 123 Euclid Avenue:

Ms. Pellerito: What they'd like to do is ?????? Mr. Hernandez has talked about leaving the back two parcels whether it be a buffer zone for the community. They obviously want it to be a family-owned and community...it's not a commercial zone, and we do understand that – they want it to be not a chain operation, not a neon light type of situation. They want it to be a community mom and pop – the way it used to be, little shop, convenient for that neighborhood...someplace that if you have to jump in your car and you have a drive-thru, and we have talked about getting diapers or milk for the family in the middle of the night – something like that that we grew up on. That's the one thing they had talked about that wasn't in the neighborhood, or that they have coffee – that you could just go and get the coffee in the morning. It wouldn't be a large structure. They have talked about possibly having a couple of tables in the front and possibly a drive-thru in the back. Okay?

Ms. Ditonto: Is it a 24 hour operation then?

Mr. Hernandez: Right now, we're looking for 24 hours. Maybe later on we would????inaudible...

Mr. Thomas: So, you're thinking with something along the lines of like a Wilson Farms with a drive-thru window?

Mr. Hernandez: No, something where you could offer coffee and maybe some hot bread and where you could go through the drive-thru and order whatever it is you need so you don't have to get out of the vehicle.

Ms. Howig: How many employees are you thinking of?

Mr. Hernandez: Two employees to start, maybe four.

Ms. Pellerito: It wouldn't be a very big building...they wouldn't have a lot of things to offer, it would just be, they're talking about homemade products and baked goods. It would be a family business.

Ms. Ditonto: One of the things that's important for us to ask is "are there other viable spots within the City that you have looked at for this type of operation that fit what you thought the community needs?"

Mr. Hernandez: There are more other spots, you know, we are looking at, but it is for the community so it's something that if it doesn't work out, then we'll continue looking, but it is for the community...

Mr. Thomas: So location is important? That's what you're saying then?

Mr. Hernandez: Yes, location is important.

Ms. Pellerito: The Hernandez family is moving in from Miami and they're coming from a tight community within, and when they came into town, (I've been working with them

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since they came to town) and that's the one thing that they said is they bought on the north side, they were very ????? to that side of town – Washington Street, the north side, they said it was very bad for them and they feel that they would really like to develop that part of it to give back to the community. Once they got into the community and they had their tour, and many people don't give Jamestown the chance to have that tour, once they had that tour, they instantly fell in love with the community. So, a lot of people don't give our community that chance, and once they did, they would like to see that part of town developed and this is just one of those buildings that was shut down and they said, "you know if we could take that down and wouldn't the people that are right there benefit from that, wouldn't they instead of having this house that had been boarded up forever, wouldn't their kids like to go back through and get the penny candy that we grew up on, or be able to drive through and get the bread and the doughnuts and things like that, instead of having this house just boarded up? I mean, we're not looking for a drive-thru that's going to be speeding cars through or things like that..."

Ms. Ditonto: What's the timeframe for this if you got approval in terms of when you would expect this to be actually open?

Mr. Hernandez: Basically, it depends on how long it would take to get built, I would say a couple of months, depending on how much time for construction.

Mr. Scalise: If the Board did approve the petition, I mean, they would have to proceed and have engineer drawings done, site plan done, and I did tell Ms. Pellerito that more than likely, now that we now how big the building is, I can determine how much parking is required, setbacks to the building, location on the property, which may or may not be in compliance with the zoning, so they very easily could come back for some type of area variance if it's approved. Right now, I explained that to Ms. Pellerito, that what they're looking for is just a yes or no to the basic contract – can they or can't they? They realize there's far more to go – it would have to go up to the Planning Commission as well. The three month time frame is extremely optimistic – by the time all the other approvals were done may be two – three months which is going to take it through to the winter construction season. We can speed through as quick as we could, but there is a process that does need to be followed, and you know, it takes as long as it takes.

Ms. Ditonto: But the initial step is getting rid of the dilapidated building...

Mr. Scalise: That could be done during the winter, knocking down the building, so that's something that could be done in conjunction with getting all the other approvals.

Ms. Howig: So, you're saying roughly, maybe Spring?

Mr. Scalise: If everything ????????, they might start construction after the 1<sup>st</sup> of the year weather permitting. But that's optimistic at best.

Ms. Howig: Are there people in the audience who would like to speak for the petition?

Ms. Howig: Anyone that wishes to speak against?

Maria Rivera, on behalf of my mother Grace Rivera, 12 W. 15<sup>th</sup> Street: We disagree, we do not want the project to go ahead for a number of reasons – safety reasons, noise, because it is going to be a 24 hour situation, you're going to have lots of noise in the back of the house and where she lives on 15<sup>th</sup> Street, that would be like the back part of the building and that alleyway there would be my mom's yard. And then, there's another house that sits back there as well. I think there's no need for it because there is an Eckerd's on one end up the street, there is Wilson Farms on the other end, there's McDonald's Coffee Shop – we've

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got convenience stores, it's all right down on Washington Street at the other end. I mean, how many convenience stores do we need in that specific area – especially in a residential area? I'm concerned about the houses being torn down as to the cockroaches and the trucks coming in there to deliver products. It's going to be a problem in a residential area and people are sleeping...a number of things I have listed here. My biggest concern is my mom's safety – she's an elderly woman and the fact is it could be a potential for a possible burglary in the area, because the fact is where she does live, in the backyard, it is all fenced in – it used to be that there was an alleyway that went around actually. I'm a little concerned about that. I'm concerned, again, about the cockroaches – once you tear down the buildings, I think the City needs to do something to bond the area, because I have spoken with some other neighbors – they had mentioned that the cockroaches do travel and in my mom's house, we do not have cockroaches, we don't want them. I think it's going to decrease the value of everybody's property around, including my mother's. Having a convenience store there, I certainly wouldn't want to be living there going to purchase a home right next to a convenience store – I think that's going to be a real sad thing if they do go to build it there. The litter, the garbage, if you want to smell and look at garbage 24/7 around your house, around that area with all the other homes there – no. How can you prevent and how can you stop everybody from littering – you can't. There's a number of reasons why, we have actually 53 signatures here – that people do not want the establishment there. You're more than welcome to review the signatures that we have. We would like a copy of them, but for all the reasons that I have mentioned, again, the noise, and I just don't feel there's a need for it really. I think you're putting everybody in jeopardy as far as security, safety, with all the convenience stores there are in that specific area on the north side, we really don't need another one. Thank you for hearing me out. Here's the petitions if you'd like them.

Donna Wilphone?? Sperry, 17<sup>th</sup> Street: My husband and I have lived there for over 18 years. We definitely do not want a business on the corner. I applaud the people that want to buy it, I'm thrilled that they're interested in Jamestown, I would love to have those houses ??????. They really have not been boarded up forever, there were families living in them. Unfortunately, the landlord was able to keep the house deplorable. It was unlivable and there were children living there. The landlord really dropped the ball really, really bad. I was constantly complaining to the City because it was unsafe for the children. Finally, they got them...they moved out, luckily for the kids, and now it is boarded up. But, it's not the type of area, especially when I heard 24 hour, absolutely would not be in the best interests of my neighborhood. Like I say, I'm appreciative that they're interested, they seem like wonderful people, it's not a personal thing – we have a lot of traffic now that we have Don's Car Wash at the bottom of 17<sup>th</sup>, we have TOPS two blocks away if someone needs diapers in the middle of the night, TOPS is open 24 hours. This is a residential area and we really would like to keep it that way. Thank you for hearing me out. How would this effect our taxes?

Mr. Olson: I don't believe it would effect them based on whatever the value the assessor has on the value of the property right now.

Ms. Sperry: Thank you.

Autumn Eccles, 175 Stowe Street and I own the house at 1075 N. Main Street where my mother lives. I talked with her this morning and the tenants that live upstairs – they're all for the houses being torn down. As far as the 24 hour convenience store/coffee shop, it's not in the best interests of any of the neighbors around there. There are a lot of elderly people that live there. They don't need to hear the trucks at night. Right now, I have a problem keeping the litter picked up that's on North Main Street so with a convenience store/coffee shop, the litter would be even worse. Mowing the lawn, you get thousands of little pieces of paper and it's very hard to pick up. So, I am against this. 24 hours is not a mom and pop store. There used to be one on 18<sup>th</sup> Street – as a kid, I went there – I grew up

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in that house and I have my mother's best interests at heart. I don't want her to put up with that now.

Harold Whitford, 127 Weeks Street: I am currently employed by Mr. Jaffe who is the current owner of the property in question. He has recently purchased the property and the landlord that was bad before was bought out. Mr. Jaffe recognizes that this property is blighted and just needs to go and this idea that these folks have of doing something is a good idea. The roaches that I heard addressed ???? the house has been shut down over last winter at least, which usually freezes roaches out so there shouldn't be a roach issue. The roaches should be gone. So that hopefully will comfort the fear of the roaches which none of us likes this. Route 60 is one of our main access roads to the City of Jamestown from the north county. We all know that. Some of the houses on Rt. 60, North Main Street, are horrible. Okay. This is probably the worst one. Everybody agrees it needs to be torn down. Matter of fact, Mr. Jaffe was going through the motions of getting that accomplished and ?????are picking up the ball on the same thing of tearing it down. The impression of people coming into Jamestown is important to all of us; to come through an area and have the houses looking bad like that one does is a horrible impression for somebody coming into Jamestown, New York for the first time. Having a convenience store/coffee shop on that...I think we need to look forward and develop North Main Street. All the way through. It's a state highway – it's our main access from the North County. We should all be looking forward, I think, to developing North Main Street as a whole. We have to start somewhere and I think this is a good place to start. ?????? scenario – we're going to have a nicer building, we're going to have the terrible looking house gone; I wish them well, I hope they succeed in their business and I hope that you folks can see the positive idea that they have here and I think the neighborhood will appreciate it after they get used to it. I know that Mr. Scalise has many criteria for buffering the neighborhood, drainage, different things of that nature. The neighborhood will be taken into consideration for anything that could negatively effect them from a new type of abuse. So, I think that it's changed and change is feared and I think we need to accept the change and try to get North Main Street turned around and looking better. Thank you.

Arthur Jones, 507½ W. 7<sup>th</sup> Street: You know, I kind of agree with what he's saying, but he's not the one that lives there. If you look at that ????? this isn't the people around there people don't want it??????? Fine, tear it down, make it into a park or something beautiful where kids go to or people to see as you come down that way. I feel that the homeowner, and I do have rental property too – not as many as he does – but, I have a couple, they used to ????? and people that let the buildings run down – the slumlords – have let things go that far, and then sell it to the next landlord, then he's got a problem to deal with. I feel that you should go after them and listen to people that live around the area. That's all I have to say.

Maria Rivera, again for Grace Rivera at 12 W. 15<sup>th</sup> Street: I did want to say one thing about if they were to build on the back end and they do have to build it up because it is quite a drop off. That would bring it up quite high and it's going to be an awful lot of runoff onto the other homes in the back there which one is my mom's and there's another little house there. So, I do want you take into consideration the damage it's going to do to other people's property as well. Again, you know, 24 hour noise and the litter and the trucks coming to deliver goods and products, it's not the area for it. It's a good thing to have the homes removed and then so these people that are wanting to do the development are going to find a better location when this is all resolved. Thank you.

Ms. Howig: Anyone else? Is the Board ready for a motion?

Ms. Ditonto: Could I ask the Clerk what the petition said, not the names, but what the petition said, and was there any other correspondence?

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Mr. Olson: We, the people of Jamestown do not want to drive through a coffee/ convenience store or Burger King (Section 300-306 – R-2 Two-Family Residential District which is at 1065 and 1065½ North Main Street). 53 signatures on the petition.

Mr. Thomas moved that the petition of Ricardo and Rita Hernandez of 123 Euclid Avenue for a use variance to demolish the building and construct a drive-thru coffee/convenience store at 1065 and 1065½ North Main Street and the other adjoining parcels that are mentioned herein be granted.

Ms. Ditonto seconded the motion.

Carried: 1 aye, 3 nays (Ditonto, Hanson, Howig)

Petition is denied.

Bruce Turner, Turner Brokers: Where we can maybe help the people that are here and maybe help the 53 people who signed the petition...if they would like to get back to us whether it's the multiple dwellings, duplexes, four plexes or whatever other uses we could make for that property if they would be beneficial to the neighborhood, we would be most happy to work with them and see what we could do.

Mr. Olson: That's outside of the meeting.

There being no further business, the meeting was adjourned.

James N. Olson  
Director of Financial Services/City Clerk  
Zoning Board of Appeals