

October 4, 2006

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, October 4, 2006 at 3:30 p.m.

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

Members Absent: Chairwoman Tammy Donato, Mary Lou Edwards

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

Suzanne Howig called the meeting to order.

RICHARD LARSON, 3 FARM COLONY DRIVE, WARREN, PA

The Secretary read the petition of Richard Larson, 3 Farm Colony Drive, Warren, PA, 16365 representing JEDL LLC, 3 Farm Colony Drive, Warren, PA 16365 for an area variance to rebuild an existing wall on property located at 310 Fairmount Avenue, (387.05-6-51) Jamestown, New York, in an R-C Zone that was torn down due to rot, owned by JEDL LLC, 3 Farm Colony Drive, Warren, PA 16365 (Section 300-0307 R-C Zone- Multiple Family Residential and Professional Office District. The required front yard setback is 25'; the proposed is 5' 3"±.

Ms. Howig: Is there anyone here to represent the petition?

No one appeared for the petition.

Larry Scalise: I'm somewhat familiar with the petition. I may be able to answer questions that any of the Board members have. If not, the only judgment I would have is that we possibly table it until next month. You're familiar with the building out there on Fairmount Avenue – it was Larson Advertising years ago. Actually, the son has come back in acquisition of the property. What they want to do – there was a wing wall near the main entrance that came out that had the business sign on it, and what they'd like to do as part of the architectural aesthetics is to rebuild the wall because over time it just rotted out. Unfortunately, it gets too close to the property line so they're here for a hearing.

Mr. Thomas: It doesn't interfere with any sidelines or anything?

Mr. Scalise: I don't believe it should.

Ms. Howig: No. I live on the west side of the City and I go by there probably sometimes five or six times a day and I remember the old wall, and I think this would be appropriate to do this.

Ms. Ditonto: It doesn't come any closer, Larry, than the old wall did? Right? There's a property line...

Mr. Scalise: No.

October 4, 2006

Ms. Howig: Does somebody want to make a motion?

Ms. Ditonto: Well, I guess I'd like to ask Larry – is there a problem with this that no one showed up, or do you just believe....

Mr. Scalise: I don't understand. I've been busy all day – I haven't had a chance to check my voicemail. He may have called and said there was a reason.

Ms. Ditonto: I hate to see us take action...

Mr. Scalise: He may be on the second floor not realizing they're supposed to be up here either. So...

Mr. Thomas: I'll make a motion since no one's here. I move that the petition of Richard W. Larson of 3 Farm County Drive, Warren, for an area variance to rebuild an existing wall on property at 310 Fairmount Avenue be approved.

Mr. Nazzaro: I'll second.

Carried: 5 ayes, 0 nays

ROBO ENTERPRISES, INC., 1295 E. 2nd STREET

The Secretary read the petition of Thomas Beichner, 1295 E. Second Street, Jamestown, representing ROBO ENTERPRISES, INC., 1295 E. 2nd St., Jamestown for a use variance to add a Laundromat on the south side of the existing car wash facility located at 111 Marion Street and 140 Brad Street plus two vacant lots on Marion Street and two vacant lots on Brad Street (404.07-8-8, 9, 10, 13, 14, 15, 16) in an R-1 Zone. (Section 300-0305) R-1 Single-Family Residential. The use of the property as commercial is a pre-existing, non-conforming use and the expansion of the use in an R-1 District is not permitted without a use variance. Before October 1998, the property was zoned C-3 Community Shopping which allowed Laundromats. The required side yard setback is 30'; the proposed setback along the eastern property line is 2'±, which lines up with the existing building.

My name is Tom Beichner, Robo Enterprises, 1295 E. 2nd Street is our main office – 111 Marion Street is our facility that we requested a variance for.

Ms. Howig: Tell us a little about what you're doing...

Mr. Beichner: Sure. I brought along – these are old drawings and not to scale.

Ms. Howig: Well, we have these...

Mr. Beichner: If you view this drawing from the bottom to the top, Ivy Street being at the top, Marion Street is to your right, what is highlighted is the proposed Laundromat in addition to the existing building there, the shaded area is the existing carwash and the convenience store, and to the left or south of that highlighted area is a house – the address is 140 Brad Street – that house would be torn down and removed and a parking area would be built behind or to the south of this shaded area on this map. At one point in time, we did bring before the variance Board a request – well, of course at the time it was zoned commercial already and we were going to put the Laundromat in but not tear down the house at Brad Street, so the request was to reduce the number of spots that was required and I believe it was from 8 to 5 at that time. Of course, since that time, that area was re-zoned and at this point in time, we made the decision that it would be beneficial to us to go ahead and tear the house down. It's somewhat dilapidated – we've put a lot of money into it

October 4, 2006

on and off over the years, it's been difficult to get tenants that (1) take care of it and (2) pay the rent. We feel as though it would be certainly good for the neighborhood to clean that up and if we add the laundry facility, we also think that that's a positive thing for the entire neighborhood. Hopefully, it will be something that not only the local residents will use, but possibly people from the campgrounds to the south. But again, it will be built to be aestically pleasing, it would match the motif of the existing carwash being a block building, parking lot would be lighted so as not to disturb neighbors, but to be secure. The interior of the building will be done in a first class manner and it will be a facility with all new equipment, parking space, plenty of room inside for customers to relax while they're doing their laundry, small reading area type of thing. We feel like it would be a good addition to the neighborhood and certainly another tax producing entity for the City of Jamestown.

Ms. Ditonto: Mr. Beichner, can you tell me how people will get into this laundry facility? Will they drive around the carwash and over...

Mr. Beichner: No. To the south, there is currently, there is actually a driveway off of Brad Street that comes into the back of our building...

Ms. Ditonto: Okay.

Mr. Beichner: There's some dumpsters back there now. We would probably try to, in fact we have to redo that curb cut, because the curb itself is actually broken there. Anyway, that curb cut would be redone there and the main entrance would be from Brad Street.

Ms. Ditonto: Okay. And would you have, I guess, lighting for the entry for the egress and I mean, would there be some directional signs there in addition to the parking lot?

Mr. Beichner: There definitely would be directional type signs so that people knew where to go and of course, the blacktop would be lined properly so that people have the direction to park. We would have to be lit to the extent that people know it's there, but we wouldn't want to overdo it because first of all, we try to be a good neighbor and we are good neighbors to our neighbors. We don't over light it so that it's bothersome to our neighbors.

Ms. Ditonto: And, have you configured the parking for how many parking spaces you would have?

Mr. Beichner: We don't know exactly how many we're going to have yet. I do know that eight was required in the past. My guess is that we'd have probably somewhere in the neighborhood of 12 or 13, but that's a ballpark figure. I don't want to overdo the parking lot, but I don't want...you know, probably leave room for expansion if it's required in the parking area later. A Laundromat isn't the type--- you don't generally have 15, 20, or 30 people there at the same time. It's a more of steady type business where you have two, three or four people needing it the most doing laundry and it's not like a service station where you have constant traffic in and out. It's a much smaller volume type business than one might expect.

Ms. Ditonto: I want to ask two more questions. How many machines you would have, and also is it a 24 hour operation?

Mr. Beichner: I can tell you that we don't have a positive number of machines yet because the folks we're buying equipment from are developing a pro forma for us that will really, based on population, tells how many machines and how many washers we need, how many dryers we need. I can tell you that the facility we build will be approximately 30 x 70 and will be limited as to what can fit in there. It would not be a 24 hour operation. We would

October 4, 2006

probably close at the same time that our carwash closes which is 9:00 P.M. We would have approximately the same attendants that attend the carwash, doing occasional walkthrough to make sure everything's clean and neat and that there's no problems. So no, it would not be a 24 hour operation.

Mr. Scalise: All of the questions you are asking are questions that are relative to the Planning Commission, and I mean, this is step one – if they get the approval here he will do the site drawings and so forth and then will be taken to the Planning Commission on the lights in the parking lot, directional sign, etc. have always been addressed. They're good questions to ask...the Planning Commission always looks at how anything impacts the neighborhood and how we can minimize where we have commercial and residential backing up against each other.

Ms. Ditonto: Well, it's rezoned but it's not commercial – it's important to note that for the zoning variance.

Ms. Howig: Any other questions? Alright. Is there anyone in the audience that would wish to speak for this petition? Is there anyone that wishes to speak against this petition? Alright. We have some hands.

Sherry Rowe, 146 Brad Street: I live with my husband Gary and we are the direct neighbors on Brad Street for this property that they're talking about. The first problem that I have, I know the Laundromat is not the problem. It's the aesthetics of the whole property. When they tear down the house – it's my understanding that they're going to level where they tear down the house and if they level where they tear down the house, it's going to create a drop off which exists now behind the carwash. And, if that drop off is abutted to my property, it's not going to look very nice. We've put thousands and thousands of dollars into our home on Brad Street. It's very nice. I have a very small business which this Board granted me the variance for and we added on our property and you would never know that I have a very small 14 x 17 shop, so when the car wash goes in and they take this house down next door and do this leveling of all this property, it's just going to raise holy heck with the way my property looks. And, it comes, if they tear that house down, and even grade it slightly, you're ¼ of the way up the block, so now you've really encroached on your commercial/residential cutback, or however you....I don't have your lingo down pat, but it's going to cause a lot of trouble, in my opinion, because they don't have any drawings, there's nothing for us to look at as to what it's going to look like aesthetically and I don't know...I just don't have a good feeling about the whole thing because there's really nothing concrete drawn for us to look at and if you go behind that car wash, I think if you look up that bank, you'll see that bank...I mean it's a sheer drop off. With the pine trees that go all the way around it which we have to trim, we've had to cut them back, we've had to trim them every year, we mow the side lawns because they're never mowed. We're the ones that take care of it, so I just...no, I just don't have a good feeling about it. I feel bad – I really do. Kim, I love you death, you know I do, but I just...

Mr. Beichner: Can I address some of those concerns...

Ms. Howig: In just a minute. Larry or Bill, do you have anything to say to that?

Mr. Rice: Yes. I think right now you're looking at the issue of a use variance and as Larry stated, a lot of the issues you're bringing up and some of the things that you were talking about are site-related issues that need to be defined better for the Planning Commission for approval. We're very conscious of the issues you're talking about and how to get the separation buffer in between a commercial and residential property, so that's something we definitely address. Lighting is one of the key things that...

Ms. Rowe: ...yes, there's a whole lot, and the cars in and out...

October 4, 2006

Mr. Rice: Oh yes. We look at all those issues with site plan review. And, this right now is just for the variance to grant for a use change is what you're really looking for at this point.

Gary Rowe, 146 Brad Street: My concerns are all the existing trees in that area are going to be down because it's their property ...trees down, so that's going to just drop off with no trees to the east of us. They're going to have a parking lot with some type of lighting in it. All three of our bedrooms face that parking lot and there have been occasions where we've had to call the police because when the car wash is closed kids go in there and blast their music and make noise. We're used to the car wash, and if that closes down at night so it's not a problem, but now the parking lot is going to be extended right beside our bedrooms, with that and the lighting – that's my concern.

Mr. Thomas: So, what you're really saying is, your concerns are aesthetic in nature – not having a business next to your house – it's just more...

Ms. Rowe: Well, it all encompasses – I don't mean to...

Mr. Thomas: I know, I know. But there's already a car wash there. If there was a sufficient buffer would you be okay with it? I mean, I'm trying to figure out in my mind, trying to...just...nobody ever wants anything next to their house – I understand that.

Ms. Rowe: Well, like I said, if you do that, now you're coming a whole quarter of the way up Brad Street and you're taking out the whole...we've got a beautiful, brand new home across the street now and that's going to...

Mr. Thomas: So your concerns are more than aesthetic?

Ms. Rowe: Well, it's everything. It's just everything.

Mr. Thomas: Well, that's okay. I'm just trying to understand it.

Ms. Rowe: I know they want to take down that house and believe me, I'd love it if they'd take down that house – it's an eyesore, it downgrades everybody's home on the street and we've got beautiful buildings going up a block and a half away – beautiful, \$100,000 homes, and they you've got this house down there and if we keep coming up the street and up the street and up the street...

Mr. Thomas: Pretty soon, you'll be at Cole Avenue...

Ms. Rowe: There we go.

Mr. Beichner, Robo Enterprises, 2nd Street, Jamestown: A couple things that you should be aware of. The existing bank behind the carwash is approximately here, the bottom of it so that the edge of our blacktop is about here. So, from this point east is the bank that you referred to. Okay. We will not have a drive-around from this side so the bank that you referred to won't be back as far as that bank. It would be sloped more from here and it would leave an entire lot and maybe even two lots between the existing Brad Street homes and your property. So, first of all, it wouldn't be as steep as the existing bank that's at the carwash, and there would be much more room between the top of the bank and the bottom of the parking lot than there is with the existing bank. We don't intend to go dig it all out and go way back the way it is for the carwash. So, it leaves much, much more buffer room between the parking lot, building and your property. Secondly, the area down here where the parking will be – it's so much lower than your home, that lights from cars and that

October 4, 2006

type of thing wouldn't cause any problem at all because they're a good 15 feet below your home.

Mr. Rowe: I'm not worried about the parking lot lights ...

Mr. Beichner: Right. And, again, we want to be good neighbors – don't get me wrong and when it comes to a Planning committee, they will address lighting so that the last thing in the world we want to do is have a big spot light towards your home. We're not there to try and interfere with your home or disrupt you and your sleep habits by having bright lights facing your home, so I have no problem with addressing lighting so that it doesn't shine on your house; I have no problem with some type of landscape through here that creates a buffer zone.

Ms. Rowe: But your parking lot is going to be where you tear down that home?

Mr. Beichner: It would be...

Ms. Rowe: ...because you're coming out with the Laundromat clear up to just about that property line right now where the house is, aren't you?

Mr. Beichner: This yellow highlighted would be the Laundromat. It's coming out only 30' from the existing building so it's not even coming close to the back of where the existing home is.

Ms. Rowe: But your parking lot is going to be encompassing all here?

Mr. Beichner: This will be the parking area. Correct.

Ms. Rowe: Yes.

Mr. Beichner: It wouldn't go up past where the house is now, so there would be still two full lots between...

Ms. Rowe: And to grade this to meet this, you're still going to have quite a drop off, so to grade it without a drop off, you've got to cut clear into this part. Is that correct?

Mr. Beichner: It'll be cut back into here somewhere probably, but it will be a much more gradual slope than the bank that the carwash...

Ms. Rowe: Okay. Did you have to produce drawings for this?

Mr. Rice: For the site plan review process, he has to produce drawings.

Ms. Rowe: But if you approve it, then it automatically goes to the Planning...

Mr. Rice: It goes to the Planning...

Ms. Howig: It goes to the Planning...you have to do this first as the first step...

Ms. Rowe: ...then we'll get another letter and we'll come back again...

Ms. Howig: If it passes here, then it goes to Planning. They go through the lights and the buffers, ingress and ...

Ms. Rowe: ...and drawings so they can see what the property's going to look like?

October 4, 2006

Ms. Howig: Yes. Very definitely.

Mr. Rowe: My biggest concern is noise. People in parking lots hang around, you know, ... carwash, now this is going to be another place...I'm not against progress, tearing down a house or doing something, but the big concern to me is to have that right outside.

Mr. Nazzaro: I just want to make sure I did understand correctly that again, the hours of operation will not exceed what the carwash is operating.

Mr. Beichner: Our intention will be to be open the same hours as the carwash – whenever there's not personnel there – the Laundromat would be closed. So, it falls between the hours of either 9 or 11:00 PM based on what personnel is taking care of it.

Ms. Howig: Did you wish to speak? Would you come up to the microphone please?

Michael Lettieri, 133 Brad Street and Theresa Lettieri, 133 Brad Street: We live directly across the street from the property.

Ms. Lettieri: The Laundromat would be over...the actual building would traverse part of our area – we could see it from our window. One of the things that I'm afraid of is this "we intend to keep it open until 9:00 as long as the carwash..." but what assurance will we have that it will close at 9:00? You know, I mean, an intention isn't enough as a rigid contract that it won't be open beyond 9:00. And, we are afraid of the numerous people that would be coming through the Laundromat and if they sit out in the cars, it would be our homes that they would be looking at and our bedroom windows and, you know, it's a little bit more scary to have people sitting out in cars, especially after 9:00 and looking at your windows while you're sleeping. So, that's one of our biggest fears is the many people that would be there and also I'd like to address one issue about advertising signs because along Brad Street and here are all these children going to Jefferson School and all these years there have been huge signs, now I haven't noticed recently, but I used to notice before and I guess I've taken it for part of the background – there would be these huge signs for Marlboro and whatever, all these cigarette signs, and these kids are passing and going to Jefferson School. I thought, gee, you know...

Ms. Howig: Excuse me, but that has nothing to do with the petition...

Ms. Lettieri: I know but then, what will they put on the sides of the Laundromat building which will be even closer to Brad Street where the kids walk by. If they plaster that side of the building also with Marlboro, etc. cigarette posters, the kids will be that much closer to these advertisements. So, I'm afraid of those advertisements, too.

Mr. Lettieri: My wife and I, actually, I was – we're not really opposed to this project. I sort of – there was one particular factor and this gentleman behind us had mentioned, was the sound factor. But before I just mention that, which is very important, we're surrounded by the oriental restaurant to our right, Arby's across the street, Little Augie's and the carwash and we've been living quite nicely with these conditions because of the most important factor – things are hustle and bustle – is when we go to sleep at night, we get a pretty good sound sleep unless the sound system goes off across the street and some other little things, but other than that, we do get a good night's sleep just like you'd like to go to sleep every night and probably do because you're in a peaceful neighborhood. We were a little bit concerned until about a week ago, Kim happened to come and I was working in the garage and we discussed some things and she assured me of some of the fears (if you wanted to use it that way) that we had. She had mentioned that the carwash would

October 4, 2006

close at 9:00, although Mr. Beichner just mentioned it could go until 11:00 – that could be, you know, whether you go to sleep at 9:00 or 11:00, that's not important – and some other little things that had put us at ease. I'm concerned about the sleep, of course, and I think that if it does close at 9:00, I think that things could be status quo quite nicely and I don't really oppose – I'm not so sure I agree – you said that nobody likes anybody building next to them – I wouldn't care if they built a carnival next to my house – if they close down at 8:30, 9:00 because their cars are going down Rt. 60, and Arby's has got action and everything else has got some type of action, and one other thing...I had mentioned about the tumbling of the machines and Kim assured me that there wouldn't be any noise and they would close the doors. So, those are our concerns and we're not necessarily opposed to what somebody says, not against progress at this time, because we realize we're in the midst of it and for me to say, us to say, no you can't have this or that, I mean, unless as I said, I certainly would like...I'll end my little...I'd like to wake up in the morning after this project is already completed and say, "well, they're good neighbors and they certainly didn't take any sleep away from us" and everything is...I hope they do a great business, and that's the way we feel about it.

Ms. Lettieri: Well, I was wondering if we could postpone the decision about this until we get drawings – I mean isn't it too soon to make a decision when we have no idea what this would look like – I mean we're all wondering. I was also wondering on Brad Street – I think it says 30 feet – am I correct that it's 30 feet the sidewalk that is 30' from Brad Street...

Mr. Scalise: Yes. The zoning requirement is the side property line the building is supposed to be 30 feet from it. In this case, because the existing building is only 2 feet from the property line, this would be the same distance back. That's where that 30 feet came from. The face of this building from Brad Street is going to be back far more than 30 feet.

Ms. Lettieri: It will be back further towards the carwash than 30 feet?

Mr. Scalise: If you look at that, I believe, it shows where the existing house is and that addition would not come out as far as the back of the existing house. Here's the house here...here's the house now, but this addition wouldn't even come to the back of where the house sits...

Mr. Lettieri: Oh, then this is not, according to the paperwork we had through the mail, the potential carwash, or the one that you're planning, comes all the way over here like this. Now I'm seeing a different drawing, which doesn't bother me that much, but why was it drawn a little different?

Mr. Scalise: Sometimes it can get a little confusing...

Mr. Lettieri: But it's completely – I mean this one – but this is actually even better, but is the inlets and outlets going here or in the back?

Mr. Scalise: They'd be coming off of Brad Street...they'd be using the driveway that's already there...

Mr. Thomas: But you're talking the ingress and egress to the building, not...

Mr. Lettieri: ...to the building, yes.

Mr. Lettieri: The door to the building that you mentioned is going to be on the Arby's side?

Mr. Beichner: No. The door to the building would be on the Brad Street side.

October 4, 2006

Mr. Lettieri: Oh. So that is sort of news to us. I either misinterpreted what you said, but I thought that you had mentioned it would be where they come right out to the parking lot. Also, towards...Arby's...

Ms. Rowe: Does this come up from the back of the building?

Mr. Lettieri: I don't know if that's a plus or minus or anything...

Ms. Lettieri: Well, I don't know – having a doorway right in front of us with all the lights on isn't very nice either.

Ms. Howig: Okay. Thank you and I'll see if there's anyone else that would like to speak. Someone way in the back?

Dana Hutchinson: I own 800 Foote Avenue – the Arby's building. My only question is, is this meeting for use or is it also for the setbacks?

Ms. Howig: It's for the use variance and then...

Mr. Scalise: ...and the setbacks.

Ms. Howig: ...and the setbacks.

Mr. Hutchinson: I was confused there seemed to be two issues there...Right now their existing building is within six inches of the property line. If they extend that building, it'll still be within six inches...there's actually the overhang of the roof of that building – overhangs my property. We had a survey done in 2001.

Mr. Scalise: Yes. This information was provided by Mr. Beichner.

Mr. Hutchinson: So, I guess my question is - is a six inch setback enough in order to build a building in the City of Jamestown? My concern really is just if you build a building – I'm all for development in the area, obviously it's going to help my business, but if somebody's working on that building and going to the roof, or what have you, or people wanting to go from that building around their building, there going to be walking over on my land. So, I wanted to be able to see a little bit more of the drawings and ask if this meeting was to cover both issues because I think that a liability issue on my side is some simple maintenance on that building that was right on the property line.

Mr. Scalise: I mean if that would be an issue, I mean, there would have to be some type of agreement between you and Robo for that access – I mean the City and the Zoning Board doesn't have the power to force you to grant him permission to make maintenance on the building.

Mr. Hutchinson: That would be something I'd have to talk to them about. Okay.

Mr. Nazzaro: When granting a use variance can this Board put a stipulation onto the hours of operation? We could make that a condition of the variance. I would like to discuss that, I guess. I'm not sure if I have a recommendation, but I understand the concerns of the neighbors and Mr. Beichner has acknowledged that he would not be open beyond – what was the time again?

Mr. Beichner: 9:00 P.M.

Mr. Nazzaro: 9:00 P.M.?

October 4, 2006

Mr. Beichner: Our carwash closes at 9:00 and our convenience store closes at 11:00. Our intent is to have the carwash personnel do most of the work, day-to-day cleanup and that type of thing, at the Laundromat. My suspicion is that Laundromats aren't used very much after 9:00 P.M., so initially my thought would be to close at 9:00 P.M., although if you were to ask me, I would say I would like to have the flexibility to remain open until 11:00 P.M. and utilize the store personnel, if in fact it becomes apparent that the 9:00 – 11:00 – there is some business to be had. So, I have no intention of a 24 hour operation, again, because I don't think there's a lot of use later on in the day anyway, but if it becomes an issue, I would sooner say 11:00 – that gives me a little bit of leeway in case there is some business there at 9:30, 10:00 at night.

Mr. Nazzaro: Okay.

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

Harold Merchant, Foote Avenue Plaza, Jamestown, New York: As I look at this, this is a different picture than what I had in the mailing and I can't say that I'm against the project, but I have some questions. Now the building as depicted here is a masonry building but is incorrect because on the west side of the building, there's a jog, and I don't see any jog here in this picture and I'm kind of confused as to where this building actually sits on the property. And, also, well if it were my property next door, I wouldn't want my neighbor within six inches of my property. I'm a little confused – I know the area very well, but I'm confused as to how this is going to play out because the picture that we have here is incomplete or incorrect.

Mr. Nazzaro: Larry, can you comment again on that "inch issue" we're talking about, I mean....

Mr. Scalise: Mr. Beichner provided me a property survey when he came in and filed the petition and the two foot issue was based on that. I mean, there are inaccuracies in surveys and you know, I mean, a foot and a half could happen. With the issue of the six inches and obviously the other property – there's no way that it's not going to be disturbed during construction. I don't know how it couldn't be. But there's nothing saying a block building can't go right up to the property line. But, the City Zoning Code does require a minimum setback and they're coming within that limitation so therefore, they would need – even if the building is there – to expand it further down, it still would require a variance.

Ms. Ditonto: But that could be a separate variance than just a use variance to allow them to progress to the next step of getting the plans...

Mr. Scalise: ...possibly, it could...if the building came straight down, back off the property line so the addition would not come over the line, but that would be an issue for Mr. Beichner. If he makes the addition smaller than what they're requesting, we can go in that direction, but they can't ask for a small size and then increase it without bringing you back before the Zoning Board.

Ms. Ditonto: But you could rearrange the square footage to get the same square footage with the proper setback, I'm thinking without going up to that six inch or one foot.

Mr. Scalise: It could be done, I mean, that's up to Mr. Beichner and his engineer to figure out the feasibility of doing that.

Mr. Beichner: I've spoken with Dana and I can tell you this – if it's any kind of a problem with Dana, we would address it and make sure he's satisfied and if it meant moving that building six inches further to the east, if I had to do that, then I would do that. If it was

October 4, 2006

something that would be required to satisfy Dana, again, we're good neighbors, we don't want to cause conflicts, we don't want to create any new conflicts. We resolve old conflicts. Anytime any neighbor has ever addressed us with a concern, we've taken care of it immediately and I'll go back even 15 years ago when we built it, Mr. Lettieri, there was a bit of a noise problem with our dryer, and at that point in time, we actually moved all the equipment in our carwash, which costs us thousands of dollars, we moved it back into the building further to reduce the noise for him and I think they were very satisfied with that. And, I'll say the same...and Dana...it would probably be best to talk to him again and we would most certainly address his concern, and if we didn't have some type of shared right of way that he was satisfied with, then I would have no problem moving it six inches or a foot...

Ms. Ditonto: Sounds like there's a conflict in the two surveys. We might have to take care of that...but is there an answer that you have about the jog in the building or the property that was addressed earlier?

Mr. Beichner: This is an older drawing and all the property lines are accurate. Why there's another survey that shows 6" difference, I don't know about that.

Ms. Ditonto: Okay.

Mr. Beichner: There is actually a jog in this building, but the face of the building and the portion of the addition is correct. The face – if you look at the drawings – you'll see this property line that comes straight in – and her building is very close to that property line – and that's the jog that they're talking about, or the property line comes down here and there's a jog, then back out to the street. So, there's one corner here and the jog in the building that doesn't show on this drawing's here. This building sticks out another 8 feet possibly. The total width of the building in back is about 70' and that's the drawing that he was referring to here. In terms of drawings being inaccurate, the property's lines are accurate – this is a preliminary drawing done and it was done, again, we didn't want to spend 6, 8, or \$10,000 on drawings to only be told here that ...

Ms. Ditonto: Have you looked at other locations? Obviously, you want to try to consolidate all your businesses. Are there other locations where you have operations where a Laundromat would fit?

Mr. Beichner: We have other locations and all of those locations have Laundromats in a very close vicinity so it just didn't make sense to try and compete with another Laundromat that was new or fairly new. Now, Jamestown, the south side, has no laundry facilities. There used to be one in the plaza which is gone now; there was another one downtown that is gone now. So, the south side of Jamestown has no laundry facility. So, it seems to be a natural with, not only our business, but it seems like something the south side needs and Jamestown needs.

Ms. Ditonto: Thank you.

Mr. Rice: If I could make a suggestion. Maybe it would make sense to separate the variances, just so it would be use grants for this point and wait for the site plan review process to look at the setback issues.

Ms. Ditonto: Definitely.

Mr. Rice: ...because there even be other ones that we have to look at, depending on how traffic patterns work out and other things too.

Ms. Howig: Board, I would like a motion now please.

October 4, 2006

Ms. Ditonto: I don't mind making a motion and I will, but I'll tell you, it's an ongoing problem we have about this "leap of faith" like not having detailed plans, and I know that's the Planning Board's job, but it makes it very difficult to actually see what the use is going to be without that. We've had very large organizations that we've asked to go back and get us plans because we could not do the work. But, I would make a motion that it's just for the use variance only for ROBO Enterprises for the operation at 140 Brad Street, plus the two vacant lots on Marion Street and two vacant lots on Brad Street for the use as a Laundromat be approved.

Mr. Hanson: I'll second that.

Mr. Thomas: Well, I'd like an amendment on that to limit the hours of operation... would that be part of the use variance?

Mr. Rice: Yes.

Mr. Nazzaro: ...a stipulation that the hours of operation would be from 7:00 A.M. to 10:00 P.M., could not exceed being open from 7:00 A.M. to 10:00 P.M.. I just wanted to comment – I felt that was a fair compromise hearing what I was hearing here that Mr. Beichner had mentioned 11:00 P.M. and the Rowes and the other neighbors here mentioned 9:00 P.M. – I'm trying to be aware of the issue of the possible disturbance of being extended beyond that hour.

Ms. Ditonto: I would agree with him...

Ms. Littieri: Yes – that's exactly one of my points was to really pin down the closing time without these variations of opinion until then. And the other thing is every other business down the road has its opening towards Foote Avenue. This would be the only business which would have the its opening towards Brad Street which is a side street in a residential area and it just would take away this residential appearance. Couldn't you make a door right in front just like every other business which is on Foote Avenue?

Ms. Howig: Excuse me, but we're talking just about this particular business on this particular property, not relating to the rest of the area.

Ms. Littieri: Okay. Well, I would like to request that this would have its opening towards Foote Avenue and not towards Brad Street. The people who live in the brand new home next to us – they're not here today – I guess it's a language problem, but I think they, may be just holding their breath about this front of a building with a door in it facing their home, and all these cars going in and out right in front. It's just...well, you guess at how I feel...

Ms. Ditonto: That could be addressed with the Planning Commission though.

Ms. Howig: This is just the use variance and the stipulation of the hours. The rest of this goes to Planning Commission. So this is a two step process for them.

Mr. Thomas: Mrs. Littieri's comment brings up an interesting thought for me. Not all that long ago and I know we're not supposed to compare individual requests, but were this property on Washington Street, we'd have a problem with this because commercial establishments aren't permitted ingress and egress off of a side street. Now, that's a state highway, I guess in a sense, this is a state highway too – maybe not the same one, but it strikes me as odd that that's an inconsistency in our zoning code that we have that prohibition in one place and not another and I haven't reconciled in my own mind what significance that has to me, if any, but it certainly is something that I guess I'm thinking about.

October 4, 2006

Mr. Scalise: Mr. Thomas is correct because this is not a CM Zone. That stipulation is not there. I wasn't here when the new zoning code was written so I can't speak as to why it was done that way.

Carried: 5 ayes, 0 nays

GOODMAN SERVICES, INC.

The Secretary read the petition of Goodman Services, Inc., 286 High Street, PO Box 684, Bradford, PA 16701 represented by Bruce S. Scolton, Esq., 414 E. Fairmount Avenue, Jamestown for a use variance to establish and operate a "recyclables handling and recovery facility" as defined by the New York State Department of Environmental Conservation in 6 NY ADC 360-1.2 (131) at 153 Jones & Gifford Avenue, owned by Goodman Services, Inc., 286 High Street, Bradford, PA 16701, in an L-M Light Manufacturing Zone, subject to reasonable conditions of operation and granting of applicable permits. (Section 300-0313) L-M Light Manufacturing District – The proposed "recyclables handling & recovery facility" is considered a junkyard by Chapter 235 of the Code of the City of Jamestown. Junkyards are not a permitted use in the L-M District. The first permitted district is the "M" Manufacturing district. A special use permit is required in the "M" district.

Bruce Scolton, Esq., 414 E. Fairmount Ave., Lakewood, representing Michael Goodman, 138 Clarence Street, Bradford, PA introduced themselves.

Mr. Scolton: This is the second time I have met with you and the third time this has been before you. I did read the minutes of the meeting that I was unable to attend. I'd like to correct one misconception that I picked up in those minutes. I don't remember where the comment came from but it was something to the effect that I left the impression that I was saying the City Zoning Code had not been changed since 1982, but in fact, the zone in this area, this district, had been changed in 1997/1998, but what I was referring to was the junkyard provisions of the Code, Chapter 235 only. Chapter 235 of the City Code, not the Zoning Code, but junkyard provisions had been promulgated in 1982 and had not been amended since. That was the thrust of the argument. It's probably my inability to communicate that which caused the problem.

We came before you earlier – application in May and we met with you July 17th in an effort to have this Board render an interpretation of the definition of "junkyard" under 235 of the Code, Chapter 235, to exclude the operation that we're involved with – the recyclables handling and recovery facility – from the definition of junkyard. That meeting was adjourned for further consideration on the 7th of August and you rendered a decision on the 7th of August that you were bound by the definition of junk and junkyard and Chapter 235 and that the operation as described to you, presented to you, fit within that definition so we would require, first of all, a use variance because the use of the junkyard is not permitted in the Light Manufacturing District – it is in the manufacturing district. It would require a use variance which would then lead to a junk license from the City of Jamestown and the continuation of our site plan review process with the Planning Commission. We're on hold with the Planning Commission until we get through this process and if we are successful with that process, then we have to go through the licensing and then we have to go through the rest of the Planning Board. I left packets of information for all of you on at least one other occasion. I assume you still have those. I have one more packet that I'd like to leave, if anybody wants to look at it as I'm talking, but primarily I wanted to and that's the reason for leaving this with the Clerk so it is now in the record instead of just having it for you. Is there anybody that's not clear about pictures and what's going on there and where this is – I think we went two or three hours, and everybody knows.....I don't want to take up anymore time than is necessary.

Now that we're here to get a use variance to permit this operation – the recyclables handling and recovery facility to operate in the light manufacturing district along Jones and Gifford, we have to show this Board that there is an unnecessary hardship of not having/permitting the operation that's

October 4, 2006

proposed by Mr. Goodman and some of the elements of that are that he's unable to achieve a reasonable rate of return from the investment that he's made, that the hardship is unique to this property as opposed to the area in general, that it will not change the essential character of the neighborhood and that the hardship is not self-imposed. Those are the standards that are in your Code Section 300 of the zoning generally, Section 11(6) which governs the use variance standards. We're here today to present information on those standards in hopes to convince you that we meet those standards and that it is proper to grant a use variance for a property recyclables handling and recovery facility to be operated at the 153 Jones and Gifford site.

As part of the packet I gave to you earlier, we gave you a summary of the expenses that the Goodman group had gone through in acquiring and developing the site. I'm handing that up again separate from the package because it does have all the elements in there. The total investment was \$625,000.00, but you can back off from the things that we're not concerned about as far as our return of investment. We're going to back off the crane of \$200,000 because that's a use, that's not a real property investment. You can back off some of the equipment at \$65,000.00 and even the rail siding if you back off that, you're going to be left with somewhere in the neighborhood of ½ million dollars. And, along with that, I have some supporting documentation – I have the Contract to Purchase of \$55,000 and my Closing Statement showing that the entire \$55,000 with tax pro rations was paid, and that's just documents supporting the figures that are on there. Mr. Goodman examined his records at the company and came up with a set of figures that correspond to these on the work actually done and the monies actually spent on developing this site. I will present it to you, but it's a little – it's not as complete – as the first exhibit that you're looking at because it does not have the rail siding on there and does not have a few other things. But, these are the sums of money that his business shows went into that development.

As far as showing that the company cannot realize a reasonable rate of return on their investment with the permitted uses, there is an exorbitant amount of money already spent and I realize that most of us rely upon the process that they have followed through to the County development people and meetings that I had with the City and the Site Plan Review process I went through in two meetings before it came to a halt on the definition issue. All the money was spent in good faith, full disclosure with encouragement by the County people, with assistance and review by the City, up until that point. The demolition of the buildings was not only encouraged but the City licensed the demolition permit – the cost of the demolition was exorbitant as you can see from the pictures you can see the four story building – a lot of money went into it. So, it's not a question for the Goodmans that if you have this bare piece of property, to get a return on it, if you put it to a use that is currently permitted in the LM District. But they have this money in it already. If you put this money together with whatever money it would take to build a warehouse, build an assembly plant, assuming it could be operated, then the amount of money would be so much greater – I don't think in any stretch of the imagination can you claim that they would make a reasonable rate of return for this money on top of what it would take to put the property in a condition that it would be useable for any permitted purpose right now. For instance – office space. There is a three story office building that's going to be developed. Right now, is the building in rentable shape – no, it's not. There are additional things that have to be done to that building –

Mr. Goodman: Yes. Asbestos removal.

Mr. Scolton: After that, what has to be done?

Mr. Goodman: Just to make general cleanup of the whole building.

Mr. Scolton: Any reconstruction?

Mr. Goodman: Yes.

Mr. Scolton: Once you do that, are you going to be able to rent that property as business offices at a rental which would retire your debt if you had bought all this?

October 4, 2006

Mr. Goodman: No.

Mr. Scolton: What we're trying to show here is that the sums of money that have been invested in good faith are such that only the type of business that Mr. Goodman and his family operate or a business of that nature is going to make it reasonable to operate there to get a reasonable rate of return. That's one of the elements you have to show. And, for that, we need a new space. I think Mr. Dan Egan is here from the Western New York and Pennsylvania Railroad – it's probably...I assume he's going to address you on what the railroad means to that area. His company did join with Mr. Goodman's company in constructing the rail spur – that is going to service the cars that are going to haul the product away. So they have an investment in it, but there's a reason for that and I think he'll talk to that, he's much more knowledgeable. The second thing we have to show is that the hardship is unique to this property and it's not a hardship that is general in nature to the surrounding community. I think it is, I think you'll agree with me, and it's unfortunate that it is and it does go back to the same misunderstanding that took place in that one area of the minutes that I read when I wasn't here about the change of zoning. When the City had this – the study about how to improve the City – make it attractive and the corridors into the City were supposed to be zoned so it would not be industrial manufacturing that's actually where the miscommunication came, while Jones and Gifford is apparently considered one of the corridors to the City that they changed the zoning so that manufacturing couldn't be there...unfortunately, the only site that's remaining on Jones and Gifford for development is this site. Every other site on either side from the Resource Center, I think east all the way to Lister Avenue, is it, first one from Celoron – it's on the west – every site is manufacturing; heavy industry that pre-existed – it's still there – an asphalt plant, cement plant, steel fabricating plant with an associated yard full of discarded equipment that machinery scrap...it's all there, and it's all uses that had the zoning not changed, we would have been able to do it. But since the zoning was changed, they're grandfathered in, they can still do it. That makes this particular property which is bordered on both sides by these types of uses – probably unavailable for the use you want to put it to, the City Council wanted to put it to, light manufacturing - there are heavy manufacturing on either side- that's naturally what's going to go in there. That's what makes the hardship that the Goodmans have unique to this property instead of hardship for properties up and down the road. All the properties up and down the road already have non-conforming manufacturing uses. And, that's what this property...or, we're requesting you to give this property so it can be used for not single purposes but for the purpose of what the Goodmans want. My final exhibit for the economics is one that Mr. Goodman's employees put together a whole spreadsheet showing the – breaking down the cost of hauling the scrap metal from different major contract sites to Bradford which is the main plant where everything is separated, bundled, crushed and put on trains for shipping to the final smelting plants – as opposed to coming to Jamestown and then put on a rail car. The trucking expense difference and based on a year-to-date, which is what my understanding is – for the average monthly trips, there's a \$289,294.00 bottom line difference in costs. It would cost more to go directly from the contract source to Bradford in trucks, than opposed to centrally in Jamestown and then combining the loads and taking them to Bradford, especially by rail...

Mr. Thomas: I want to make sure I understand what you just said. The savings that Mr. Goodman has enjoyed to date are \$289,000 by virtue of having run that site? Is that what you just said?

Mr. Scolton: No. I just said...

Mr. Thomas: What did you just say? Because I don't understand it...I don't want to...

Mr. Scolton: ...that the extra cost in labor for the drivers and freight, rubber and gas and everything else by doing it directly to Bradford in the small truckloads would cost that much more-that does not say he's making that profit, it would just cost that much more and it's up to the Goodmans to decide whether that makes the operation profitable or not. They haven't been here on that basis. That is why ...but they're here on the other basis – that if they can consolidate these loads and get

October 4, 2006

them down economically and make money. If they can't get them centrally – load them up in big loads and get them out, they just can't do it.

Mr. Thomas: So, those aren't the savings that they have enjoyed, those are the savings that they could have enjoyed. Ok.

Mr. Scolton: Well, yes, it's the same thing...

Mr. Thomas: I want to understand what you're saying....

Mr. Scolton: They would have – assuming they're going to do it the other way – which....

Mr. Goodman: We would not be competitive in the market...

Mr. Scolton: ...by \$289,000 – the difference – they would not be competitive...that's what Mr. Goodman was just saying...They could not do it the other way and make economic sense. That's the whole idea of putting that spread sheet together. The reason we're showing you all this is they can't get a reasonable rate of return on the investment they've already made. The two elements that are kind of together that we have to show the board that the hardship is unique to this property and not the general area and that the proposed use would not alter the central character of the neighborhood...the visual evidence is the best of that. I had video tape that I made earlier in the year here – I brought it the last time I was here, but it didn't seem that it was appropriate to show it at that time because we were trying to say that we are not a junkyard, but now, since we have to establish that the character of the community, of the neighborhood would not be changed, not be affected, and we have to establish that the hardship is unique to this property and not the surrounding areas, but I think it's appropriate that I show the video – do you have any objection if I show that and kind of talk through it? I started right at the Celoron line. This is all on Jones and Gifford facing south – which is the side 153 is on.

Mr. Scolton showed the video and explained it. (The tape is included as part of the record).

Ms. Howig: Ok. I'd like to say something for a minute. What we saw in the video, all the rest except for the Goodman property has nothing to do with your petition. We do not make a comparison between other properties or whether it was mis-zoned code, or the old zoning code or the one before that and so we concentrate just on Mr. Goodman's.

Mr. Scolton: I appreciate that, but one of the standards that we have to meet to justify the use variance under your code is that the use will not change the essential character of the neighborhood, so I've shown you the character of the neighborhood so you can make that determination. That's right in...

Ms. Howig: Well, we're pretty much Jamestown people and I'm sure we've been up and down that road many times...

Mr. Scolton: I know. I just hope you appreciate the reason, it's not to take your time or to - I have to make a record because if you vote in favor of it you want the record to support in favor of it. If you vote against it, you want the record to support against it – but either way – you want the record to support and I'm just trying to...

Mr. Thomas: Thank you.

Mr. Scolton: Those two things show that I think we meet the other two standards of not changing the essential character of the neighborhood – that's what the statute says – neighborhood. I don't think anybody would call that a neighborhood; and, that the hardship is there because we couldn't use that property for other than manufacturing or something that is not permitted now. The only other element that we have to show is that it's not a self-imposed hardship, and I think the video

October 4, 2006

shows that it's not self-imposed, all those things exist, the Goodmans made the applications, made the purchase, did the site plans, involved the County for two years, involved the City for a few months, had a couple of meetings – did all those things in good faith, so it's not self-imposed. They didn't go out there and say "the heck with whatever's there, we're going to go do this," and then come back later and say "now, can we do it?" They tried to cooperate with each branch of government, each level of government, each level all along, until they were literally shocked by what happened. And that's why we're here-we tried to avoid getting a use variance. Now that the definition was interpreted such, we have to get a use variance. That's why we're here.

Ms. Howig: I have a question to Mr. Goodman. Were you aware that there was a Zoning Board of Appeals that you would need to come in front of before you purchased this property and started to develop it?

Mr. Goodman: I was working with Larry Scalise- that's who I thought I had to appease to keep this project under way. And, he said it was okay 'till he stopped us six months ago.

Mr. Scalise: When we first started discussions, we were talking about a transfer station and I was led to believe they were just going to bring containers in from off site and then the trucks would come in and haul them out to the Bradford site, but there wouldn't be any material put on the ground and so forth, and we were proceeding through that. I did not believe the junkyard ordinance pertained to what was being proposed. It did evolve and they did go before our Planning Commission which unfortunately I did not attend the one meeting when all of this happened. Mr. Rice might be able to speak to that. What was proposed at that meeting was very different, extremely differently from what I was believing was going to occur on this site.

Mr. Rice: At the Planning Commission meeting that Larry's referring to, it became obvious that there was a question as to the use was really being, and the operation was really being proposed and how close it came to the ordinance that we have about junkyards. That's the reason why Planning tabled any action on it and it came to this Board for the interpretations.

Mr. Scolton: These are the minutes of that Planning Commission meeting which I did not attend, I listened to the tape that has been provided by the Clerk and about 2/3rds of this discussion back and forth about the issue being raised and then all the Planning Commission members, the Goodmans, Mr. Goldman and everybody tossing around definitions. It's pretty clear to me that it was the first time it was brought up – first time that the Goodmans were aware that there could be a problem and they were shocked by it. It should be part of the record anyway....is that part of yourIt did come as a surprise.

Mr. Rice: One other comment that I'd like to add to the record is the very first time that we met with the Goodmans at the County IDA, we made it very clear about site plan approvals and that has not been satisfied. So, just put that on record that it has not been satisfied...

Mr. Scolton: When you say it has not been satisfied, the process hasn't been completed...

Mr. Rice: Exactly.

Mr. Scolton: It was stopped at this meeting.

Ms. Howig: So, one thing of information for the Board. On the same side of the street that the Goodman's place is now, is the Chautauqua County Bike Path and also another thing too, that is a very high traffic area street and particularly trucks. I think I am the only Board member here that lives on that side of the City, and the trucks use that rather than going up on 394 and going out through, you know, all the way up to Lakewood that way. And, unless they're delivering up there, the trucks use 394, etc. But the rest of the truck traffic through there is very, very high, constantly.

October 4, 2006

Mr. Scolton: I suppose that's followed largely by the other businesses that are there.

Mr. Ostrowski: From what I've taken from the County is that that road was made to be an industrial road for heavy truck traffic and the amount of truck traffic that is on that road is a majority of, I hate to correct Mr. Scolton, but there's two asphalt companies there. Those asphalt companies ship all their materials via truck which is very intense. The amount of truck traffic that they have – I counted one day – there's 78 trucks between those two companies that drive on that road. As I counted them, I decided well, what is that real time frame of the trucks being in front of me. You know, I mean, 76 trucks is literally 76 minutes. It's a very insignificant amount of traffic to me for that road. You know, it was built to be an industrial road. That road was falling apart before the County rebuilt it and they rebuilt it to be used for an industrial use.

Mr. Scolton: And that's why it's a hardship for this property not to be permitted to use it in a manner that's not as industrial as that...you decided did not meet the light manufacturing definition. I believe Mr. Egan who represents the railroad may have a few things to say, but I think that's our presentation.

Ms. Howig: Well, Board members need time too. Do you have any questions here?

Mr. Thomas: Well, we'll hear what Mr. Egan has to say, and then I assume Mr. Goldman didn't come just to observe...

Mr. Scolton: And, of course, like the other questions on the last one, you can impose restrictions, conditions and that type of things because you're dealing with a use variance. You can certainly do that. You've got all the pictures, and you can hold us to it.

Mr. Thomas: As long as you're still sitting there – I'm looking at your cost analysis, your spreadsheet that you guys put together and I understand it all the way down to the bottom. Cost difference per year in round trip costs, it says. And, then it comes up with a twelve month – let's call it transportation savings – that's the number of months, times the number of trips, times what you say your cost savings per trip is. And then the next item on here is cost of required additional roll-off unit - \$134,395.00. What the heck does that mean?

Mr. Goodman: If we had to go 52 trips per month to Bradford instead of going to the one recycling center, we would have to add another truck and driver to the fleet and when you service the accounts, they're listed on that page. If every truck we got from every one of those vendors in Jamestown had to go to Bradford, we'd have to have an additional truck to our fleet – that's the cost there.

Mr. Thomas: And that's the cost of the truck and the driver, or just the cost of the truck?

Mr. Goodman: Just the cost of the truck.

Mr. Thomas: Okay.

Mr. Scalise: At the least, they came and met with us, and then almost a year has past....that meeting....what they needed to do for site plan review and so forth. And, it was about a year that we didn't have any contact, as I remember, then they did contact us again, they had hired an engineer. We sat down with them, we proceeded to go through a site plan process, and then they did refine the plan....they took it before the Planning Commission and that was

Mr. Rice: ...that was the date that the issue came up because of the definition of that came out through the meeting...

Ms. Howig: So, their advertising in the phone book was done before they had permission from Boards to run the business?

October 4, 2006

Mr. Scalise: Yes. They don't have any approvals as of yet.

Mr. Egan: My name is Dan Egan. I'm Vice-President of Marketing & Sales for the Western New York and Pennsylvania Railroad. Our address is 69 South Dow Street, Falconer. My whole reason for being here today is to not only support the Goodmans in their quest to set up business in Jamestown, specifically on Jones and Gifford, but also to give you an idea of the kind of impact that this business has on the railroad. Mr. Goodman's operation – the way we've looked at this in going forward – will probably start off in the neighborhood of 250 carloads a year. We expect by the second year to have that up to 500. The ultimate goal is to turn this into a thousand car a year business. To give you a perspective on what that means to the railroad...as you all know, Conrail destroyed this railroad. They did it on purpose. They wanted to get out of it, they couldn't abandon it because they're a common carrier and they couldn't tell the customers to go away, so what they did is they just made service so abominable that the customers, like Bush Industries, Jamestown Board of Public Utilities, just left. As they left, they ripped up the infrastructure. This railroad has a very serious infrastructure problem. Our company has put between grants and our money, has put tens of millions of dollars into getting this railroad back up and running. Because of that, Jamestown is now on the map for industrial development. You cannot get on a corporate planner's docket if you don't have good transportation infrastructure. The WNYP has multiple Class I connections plus good connections with other regional railroads that allow business like Mr. Goodman's to exist - businesses that wouldn't be viable in any other way just because of our ability to reduce transportation costs to those customers. What Mr. Goodman is trying to do now in this operation, is be able to get to markets without rehandling product anymore than is necessary by bringing it into Jones and Gifford (Goodman's) preparing it for shipment by rail and then putting it on railcars. We can get it either to his yard in Bradford or we can get it to his ultimate customer without ever having to rehandle it again. That's one of the big pluses to this. I used to work for a company called American Rock Salt and we had a joke – if you had to handle salt once, you could make money. If you've got to handle it twice, you're probably going to break even and if you handle it a third time, you're losing your tail. So the bottom line is scrap isn't much different. It's a very – what we call – a low rated commodity. The more you handle it, the more it costs you, the less return you get on your dollar. The other piece of the puzzle from our standpoint is that there is very little developable rail front property in Jamestown. Quite frankly, the only two pieces that really are developable are Jones and Gifford, and what we call the West Yard, which is the yard that runs under the First Street viaduct, I believe. In a perfect world, given the type of businesses surrounding the Goodman property on Jones and Gifford, from a rail standpoint, and believe me, we've got money invested in this too, half of that siding is our dollars so we've got \$30,000 of our money in it. Jones and Gifford is the least invasive from a trucking standpoint to bring a product in for reconsolidation; the fact that it goes out by rail reduces the truck traffic by half on that street. If it was strictly a – I forgot what you referred to it was – not a collection site, a transfer station, then you would have trucks bringing it in and trucks taking it out. This way, you've only got trucks bringing it in. If we were to put them in the West Yard, then you would have trucks coming down Steele Street – both directions – from all directions, rather. You would still have the rail going out, but you would increase traffic on Steele Street. The railroad, while the West Yard is a viable option for the Goodmans, it's not the best option. It's not the best option for Jamestown, it's not the best option for the railroad, it's not the best option for Goodmans. The bottom line is though, a customer that is going to be able to produce the kind of business that this railroad needs to survive, which Jamestown needs for future development, not the least of which is the Board of Public Utilities and the new generating station that will require that in order for them to be as competitive as possible, that rail will bring in coal, not just trucks. We have brought in a lot of coal for the Jamestown Board of Public Utilities. Even when we haven't won the bid, what we have done is helped reduce the cost of coal to the Jamestown BPU because the trucking suppliers know that they have to compete against the railroad. We bring a lot of benefit. It's my job, of course, to pat ourselves on the back and to wave the railroad flag, but I think you all would have to admit that the railroad is (1) been a good neighbor (2) has been very instrumental in keeping business here. Had we not taken over the railroad when we did, Monofrax was going to close. We all know about Bush Industries and the problems they went through a couple of years ago in their bankruptcy and their ultimate sale. While it's never been

October 4, 2006

discussed, by the time that all happened, Bush Industries had converted to rail because of the major cost savings it brought them vs. the way they were getting supplied by truck. It also removed every railcar we bring in by the way – eliminates at least three trucks coming into the City or through the City. So there's a very real economic impact here and had Bush Industries not been rail-served, there would have been a possibility that the new owners would have looked at other Bush plants and said which ones can be rail-served vs. which ones can't and it might have gone that way. Transportation has changed in the last 3-4 years. The last thing that happened that really changed the dynamics of transportation in this country was in January of 2004, when the new hours of service laws were passed for truck drivers. What that is, is essentially reduces the trucking workforce, the available trucking workforce by almost 20% because no longer were drivers allowed to fudge on their logs the way they'd been able to where they could go into a warehouse and sit for four hours and log off duty while they were still sitting there awake waiting to go to work, or unload their truck; now they can't do it – once they sign on in the morning, they've got 13 hours of which they can drive 11, and if they sit for six of those hours – it's too bad. When that 13th hour comes, they're done. So what it has done, is it has raised the cost of transportation, it's put a lot of business back on railroads because railroads are much more efficient. They use 25% of the fuel per ton that a truck does to deliver goods. I'm just trying to give you an idea of what the impact is. The big problem for us is that there are very few traditional rail customers on the Western New York and Pennsylvania Railroad. We operate over 200 miles of railroad – from Oil City, Pennsylvania to Hornell, New York. The biggest concentration of business is in Meadville and Jamestown. We only have four real customers in Jamestown. We're looking to grow some more but we need cooperation, we need help from the City on allowing good business to flourish here and allow the railroad to make money and be here for the coming years. Without growth, this railroad dies. Plain and simple – it's just economics. I'm looking forward to, or have been looking forward, to doing a lot of business with Mr. Goodman, and in doing so, increasing the local employment here from, I think we're about 25 employees working out of the Falconer office now, as we grow, we look to have that extend even more. We're going to need more crews, we're going to buy more fuel, we're going to buy more goods and services through the local businesses here and continue to add to the local economy. I am very, very hopeful that this Board will rethink the previous decisions and understand that there's more to it than just somebody putting in what you'd call a junkyard – I call it a transload facility. Non-traditional companies, non-traditional rail customers, or customers that can't get direct rail service to their door, which is a very expensive proposition. That small siding that's out behind Jones and Gifford cost \$60,000.00, and that was done with our own labor at cost. If you're on a Class 1 railroad, that same siding, if you could get it, would cost you ½ million dollars. So, what we're looking at now is if we can establish this business with the Goodmans, there's another piece of business that is big in the economy in this part of the world, and that's the forest products business, the people here that are the loggers in this part of the world can't get to the good markets as economically as their competition because they don't have a way to get them to the rail and get them loaded and get them off to northern Quebec where most of the mills are and most of where these logs go. That was another piece of the puzzle. There's more to it than just Mr. Goodman's track – there's a work relationship that we have established that the railroad can go out and market rail car loading and unloading facilities at Jones and Gifford. Basically, I think that's about the end of my presentation and my plea. I really do think that this was, in my own opinion, and that's all it is, this is a very good thing for Jamestown – it shows that business can be developed. Let's face it. Light manufacturing from a rail standpoint does nothing for us because light manufacturing does not buy product in rail comparable quantities, nor do they ship products in rail comparable quantities, so we're looking at one stop on Jones and Gifford that's the only place that we can do business, unless Suit-Kote expands and starts bringing in railcar loads of asphalt. And that's all we've got. So, thank you.

Ms. Howig: Anyone else in the audience that would like to speak?

Mr. Goldman: I'm Mike Goldman, I'm the attorney for Weinstein & Company. I am not going to take the amount of time I've taken before. I think that our comments are all on the minutes and on the record. I could give you more pictures to show that it is a scrap yard, but I'm not going to do that either, because it is. Couple of comments though – (1) I had a lot of time on the rail – whether or not there is scrap on the ground, whether or not they are a junkyard, or whether they are

October 4, 2006

a transfer station, they can still use the railroad. Because the containers, if they take the container so it fits the railroad car from the site where they're picking it up, they could put that container in the railroad car, take it to Bradford, they could do their sorting and everything else in Bradford. So, any of this economics stuff that has to do with the railroad, doesn't really affect... 'cause all we're really talking about here is the processing of the scrap on site. Not how they get rid of it. Not how they transport. So they don't have to buy another truck. They don't have this extra cost of the trucking, because they could do it by rail. The only problem they're going to have, which is I don't figure a major problem, is that when they get the container from the manufacturer that they get it from, they bring that container to Jones and Gifford, they take that container and they put it in the rail car. So, it can be done. They don't have to put it on the ground and sort it and everything else. Is it easier for them? Sure it is. But that's not what the case is. The second thing is, and it's bothered me, I have to admit, from day one. They said, and they did it again today – they said Liberty is a scrap yard. Liberty is not a scrap yard. It's a transfer station. This Board, I believe, made the decision that they would not allow Liberty to be a scrap yard. They would allow them only to be a transfer station.

Mr. Thomas: That's correct.

Mr. Goldman: Guess what? It's next door. It's next door. I mean if it's good for the goose it's good for the gander. The other thing is we're talking about a hardship. I don't think there's much of a hardship, I think it's shown that there's not much of a hardship because of the rail. I don't think the cost is that much greater. But, and I hate to do this, but I'm going to, this whole thing up until the Planning meeting, their whole presentation was essentially that they were a recycling operation, they were not a scrap yard. It wasn't until just before that Planning Board meeting, that it came to light, that in fact they did have scrap that was processed. There is no question that they are a scrap yard. This Board has already made that decision. So, when they say that the hardship is not self-imposed, sure it was. When they bought the property, they should have checked it out. They knew, which they should have known, that they were going to process scrap. They should have come in – the zoning requirements – everything's right there. If they would have said to Larry Scalise or to Bill Rice or to Greg Lindquist or to anybody else, "oh, yea, we're going to process scrap." If they would have come out and said that, it wouldn't have been that delayed. They would have started from square one. I don't see a hardship, and again, just like I said before, we want fair competition. This is not a hardship and it does affect the neighborhood because you've already made that decision with Liberty. I've nothing further.

Mr. Thomas: Thank you.

Mr. Scolton: Bruce Scolton, attorney for the Goodman Services, Inc., office is in Lakewood. Mr. Goldman was not present at any of those meetings that he just spoke so eloquently about. These two gentlemen were – they told you of the substance of those meetings. Enough said about that. Mr. Goldman and his client also do not run my client's business, so it's not as simple as containers going from one place to another. We spent literally an hour and an half two meetings ago explaining that to you. We shouldn't be rehashing that. You determined that the definition under 235 doesn't encompass what we do. We accept that. That's why we're here to get a use variance. Last time Mr. Goldman says "they're a junkyard – they should be governed by 235." So, we're here to be governed by 235. We'll apply for the proper license when we get the use variance if that's what the pleasure of the Board is, and we'll continue our site plan review process with the Planning Commission after we get the license, after we get the use variance and go through all that. And, he was encouraging that. Level the playing field. Make him get a license. Make him do this. That's what we're here for. Level the playing field, have competition, same regulations apply to both. That's not what he was saying today. Just remember what we talked about before and what the comments were before.

Mr. Egan: Dan Egan again from Western New York and Pennsylvania Railroad. I'd like to clarify some things. Mr. Goldman is seriously in error. I'm not a lawyer so I'm not going to try and be a lawyer – I've got almost 40 years in transportation. I think I know where I come from. A typical container – scrap container – loose, on a 40' or 45' trailer is going to weigh about 10 tons

compacted by a machine and loaded on a rail car, you're going to move 10 container loads in one car. What Mr. Goldman is thinking of, is inner mobile traffic. We see it all the time when we're on the big railroads where you see the containers stacked on cars and those cars go by and everybody thinks that those two boxes that are stacked on top of each other are on one car. There's five spots in an inner model car so you have five bases. Those cars cost millions of dollars. Alright? And the machinery used to pick and stack those containers cost hundreds and hundreds of thousands of dollars. And it does not pay for itself to handle scrap that way. And, the only way that railroads work for customers is because of the tonnage that we can haul and the tonnage that we can haul legally. By compacting that material, loading it into specially designed cars, we can call them scrap cars, that's the only way it works. You cannot load loose containers with uncompacted material into rail cars and have it be anywhere near competitive, as a matter of fact, it becomes more expensive than it is to haul it by truck. And it's already been established that hauling it by truck puts this whole operation upside down anyway. So, I just wanted to clarify that for you Mr. Goldman, as a definite error on how you move traffic by rail.

Mr. Scolton: One final thing to remind the Board is that is what is done at the Bradford plant. Bradford site – not in Jamestown. That is not is what was proposed. I'm sure you all understand what was proposed. Nothing stays on the ground overnight and it's always on concrete during the day – nothing is out of the container overnight.

Ms. Ditonto: The Planning Commission's job is now to look at the site plan and to make the provisions to fit into the type of business that they would operate there if a use variance is permitted. Is that right, Bill?

Mr. Rice: Right.

Ms. Ditonto: And, some of the issues that have come up in terms of how long things would stay on the ground and all of that, would be addressed in the site plan I assume?

Mr. Rice: I'm not totally positive on that and maybe Marilyn would be the best one to speak to that because you do have a junkyard law that speaks of any scrap on the ground. Okay.

Mr. Scolton: This Board could impose those conditions.

Mr. Rice: I think in my mind, you're here for a use variance and that requires a test or hardship and there's a number of questions that need to be answered. Maybe Marilyn you might walk them through that...

Ms. Nieves: If they want me to, I mean, I would be happy to do it. Mr. Scolton is....the test comes directly out of Section 81.3 of the General City Law – that's where the hardship test, the different tests -use variance and the area variance come from. And, the test would be the applicant cannot realize a reasonable return provided the lack of return is substantial as demonstrated by confident financial evidence. The alleged hardship related to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood. The requested use variance if granted will not alter the essential character of the neighborhood and the alleged hardship has not been self-created.

Mr. Nazzaro: So, we as a Board, we could, if we feel those conditions are met, to grant the use variance. We can put the conditions on at this time that it would be, the scrap would have to be in self containers and would have to be on cement pads – it would not be left overnight – those type of things? Those could be conditions.

Ms. Nieves: Absolutely.

Mr. Thomas: Will you humor me for a second, Mr. Scolton, and let me run through a little exercise with you?

October 4, 2006

Mr. Scolton: Yes.

Mr. Thomas: You're talking about economic hardship and I thought now, let's see what your economic hardship is, just for kicks. You claim you spent \$625,000 so if you walked away from it and there was nothing to be reclaimed – Mr. Goodman lost \$625,000.00.

Mr. Scolton: It'd probably be less then that because I asked you to back off the equipment and...

Mr. Thomas: Okay. I took \$250,000 off for the equipment which means he's out \$375,000.00. He said he's averaged 52 trips a month at \$211.00 a trip for nine months, year to date, assuming through the end of October – that's what – five days ago. That's \$98,748.00. That means Mr. Goodman's out \$276,252.00. Okay. If we say no and you go to Court and you loose, and you have to walk away from the property and you sold it, what could you sell it for? Well, you bought it for \$50,000, you fixed it up a little, there's \$30,000 in a rail siding, I said, just for the sake of argument – correct me if I'm wrong – let's say that's worth \$76,252.00, because it means now Mr. Goodman's out \$200,000.00. Is that reasonable? \$76,000 – do you think you can get for that?

Mr. Ostrowski, 123 Southland Ave.: What is the value of the rail siding that you can't....

Mr. Thomas: I'm just saying....just for kicks...do you think it's worth that much?

Mr. Ostrowski: If you read the conditions of the Code it addresses transloading.

Mr. Thomas: Wait a second, let me tell you why I'm asking this question....But my problem was, Mr. Egan said that now you've got an access point there, so if someone wanted to go and load on the railroad there, that could happen. What I'm saying, for the sake of argument, ...

Mr. Egan: No, because by...if you don't grant a zoning variance for heavy industry, then no trans-loading would be allowed on that property by your own definition here today...

Mr. Thomas: But, transportation is an industry. That's shipping.

Mr. Egan: Yes, but it's heavy industry related. We'd have to stockpile...say, if we did logs. We'd stockpile logs and when we got a carload we'd do it. Okay.

Mr. Thomas: Okay. I guess I'm just saying, for the sake of argument, even if it's worth \$50,000.00, you'd get back what you sold it for and you cleaned up all the property, so even at that case, you've got \$225,000 in it. Then, I asked you that question about the \$135,000 for the truck that you would have had to buy...and I said alright, let's take ¾ of that – let's just round it off and make it \$100,000, and then you certainly must have gotten something for when you reclaimed or sold the scrap for whatever you tore that building down for...I'm just trying to figure out what your loss is...so I could see if you really have an economic hardship or not. And, if \$25,000 is a good estimate, and that's just a guess 'cause I certainly have absolutely no clue what that kind of stuff goes for, then your net out-of-pocket to date for this project is somewhere between (if you had to walk away and you could sell the property) somewhere between \$75-100,000.00.

Mr. Thomas: Am I missing anything?

Mr. Scolton: Well, I think the most essential thing you're missing is the Goodman family bought the property with the idea of development for this particular purpose.

Mr. Thomas: I know...

October 4, 2006

Mr. Scolton: Alright. Anybody else who would buy that property would have to develop it for the purpose as permitted under your zoning. Mr. Egan has made an argument that only heavy industry could possibly operate there if they use the rail side. So, my observation is just if you find a proper use and the proper buyer who could use the railroad and the cost would have to be enough to recoup the cost of tearing down the buildings – all of that – then possibly your argument makes sense. But,....

Mr. Thomas: Mr. Egan made an eloquent argument and you know, you're right and I agree with you, but, and this is a huge but for me on that one, the problem is from where I'm sitting, you convinced me that you have an economic hardship if we don't grant this to Mr. Goodman, but you didn't convince me that that creates the same problem for him. And, as much as I'd love to agree with you, I'm not sure that that matters.

Mr. Rice: If I could answer – kind of maybe get this pointed in the right direction that I see...One of the conditions of the use variance itself – imposed hardship...To date, there's been no building permits, there's been no site plans, application and approval. Are these costs incurred by your client taking on his own volition.

Mr. Scolton: I've tried to be as polite as I could. I really have tried to be polite and professional. But, I'm just going to say it the way they tell me. They were led along the primrose path and the County and the City and sunk all the money in to help them out to tear down buildings and make that place operable for what they wanted and what the City wanted them to do, and all of a sudden, boom, it comes to a screeching halt and they had all this money invested in there with no way to recoup it. That's the blunt end of it. And, I'm sorry, but that's it.

Ms. Howig: They came in from a different state...

Mr. Thomas: That doesn't matter, though...

Mr. Scolton: They dealt through the IDA to the County level.

Ms. Howig: Alright...okay, but still things were not done in the proper order that they would be...should go through...and as Mr. Rice just said, you don't have the zoning permit, the plans...everything...and there's just order to what this Board in this City works under.

Mr. Scolton: They were made aware of that at the April, 2006 Planning Commission meeting, but the minutes of those...

Mr. Rice: They were made aware of that from the very first meeting that we met with them over at the IDA. I was at that meeting.

Mr. Scolton: They were *not* made aware that there was a zoning issue until...

Ms. Howig: Why coming in from a different state were not all of these things coveredthis is what I can't fathom...why

Mr. Scolton: I certainly wish they were...(tape changes) ...they were in communication with and planning with Mr. Alexander who was then the Industrial Development Director of the County, with an associate, they met with the City people who had the authority about site planning and all of the rest of this, they did what they thought they had to do. I agree.

Ms. Howig: But they don't...

Mr. Scolton: They should have gone to a lawyer and said check out the zoning...they didn't do that, and if that takes away the self-imposed hardship when they did what they were told to do at the County level, did what they were told to do at the City level, gave them what everybody

October 4, 2006

wanted, were encouraged all along the way to do it, including getting demolition permits from the City and paying the City for the privilege of taking away those dilapidated buildings on their own ticket. They did get those permits from the City and paid for them. All of that was told that they had to do those things as a proper method of doing, the proper procedure to follow, they went all along that. And then, it came to a screeching halt when somebody said "junkyard." I'm just telling you, it should have been done differently and we wouldn't have had to be together these three times had it been done differently. But it was done differently and they did what the County, especially the County level, and development people told them they had to do and they cooperated fully and did the plans, the engineering plans, the drawings and revisions, everything that the City people told them to do. They did all those things.

Mr. Rice: The one problem with that is they didn't get a final approval because of the definition issue that came out at that meeting.

Mr. Scolton: They certainly did.

Mr. Rice: So, in other words...

Mr. Scolton: ...come to a screeching halt...

Mr. Rice: ...to spend that money without the approval...

Mr. Scolton: No, they spent that money with the encouragement, direction and advice of the County and City people...

Mr. Rice: Did they have the approval?

Mr. Scolton: Mr. Rice, we're here to say you haven't gotten final approval – you said you needed the definition thing...

Ms. Ditonto: they're just doing a use variance...the use variance is all that they...

Ms. Howig: Tim, do you have any more questions?

Mr. Thomas: My only question was I was trying to determine in my mind whether they suffered an economic hardship or not, and I'm not sure that...I think they suffered one, but I'm not sure it's significant enough to swing...I mean I certainly agree that – Mr. Scolton, you're right, they might have gotten led down the primrose path, but that's not something that – I'm sure we can take into consideration. I appreciate your pointing that out to me, but I'm not sure how that registers – I'm talking out loud so you understand, I'm not sure how that factors into the decision that you're calling upon me as a member of this Board to make. I'm just not certain of that. So, any of you people that are here have any thoughts on that, I'd love to hear them.

Mr. Scolton: We gave you the arithmetic on what they spent. I don't see how you can deminimize that investment for any business. Especially, when we're telling you that he can't recoup it from that site without a use variance. If anybody has an idea that...the person that owned that place before had it on the market for literally years. When was the fire?

Mr. Thomas: Five years ago maybe....

Mr. Scolton: That property hadn't been used since Voting Machine?

Mr. Scalise: Powdercoating was in there.

October 4, 2006

Mr. Scolton: The property was going back to the County for taxes. That's when we came in and purchased it. It was going back to the County for taxes, so nobody found a use for that property.

Mr. Nazzaro: They had to fall upon a financial hardship, I guess, I'm struggling with that point, as well, because I guess when you determine hardship, I guess, I'm not aware of the size of your business...I mean obviously, those numbers would not be a hardship, Microsoft – okay – but it could be a hardship to – I don't know the size, I don't know, I'm a CPA, and so I don't...I don't know if this really is creating a financial hardship. Yes, it's a lot of money, you have to back out the equipment, but that crane can certainly be used elsewhere, but again, I'm trying to get a handle myself on is this really a financial hardship if this Board were to turn down the granting of the special use variance? In relationship to your operation with...

Mr. Goodman: ...without it would be a hardship because the additional cost acquired by doing the work – shipping every single load to Bradford. 52 a month is what it is, so that would be 52 loads to Bradford instead of five or six loads to Bradford – it would be a hardship without it. Look at the list we have of very good customers in Jamestown and we're getting more...

Mr. Scolton: And if you look at that – that contract there they're required to do certain things there. It's not that they can walk away and say they're 2, 3, 400,000 dollars in the hole – we'll go do something else. They have to serve these people and they service by putting it on trucks – they're losing money. I can't put words in your mouth because it will not work. The difference is what they put on those papers. Servicing by collections and transportation in bulk – they can make it work. Half the service – that's financial hardship. And I pointed out to you at the beginning what the standards were, where you find them, and we gave you evidence as best we could on each one of those elements instead of trying to just say cut us a break like you do other people. Nobody complains. Let 'em have it. We gave you the standards, we gave you the proof, we gave you the documents in evidence. Tried to be above-board as we could.

Mr. Thomas: Let's say, hypothetically speaking, we grant this variance...

Ms. Nieves: Okay...

Mr. Thomas: ...they still have to get a license.

Ms. Nieves: Correct.

Mr. Thomas: What's involved in that?

Ms. Nieves: I defer to my colleague over here, Larry, because that would not come to my office.

Mr. Thomas: I'm just curious – do you have to tell 'em, do you have to give it to them?

Mr. Scolton: I believe it's a \$10,000 bond and \$100 fee to the City Clerk.

Mr. Scalise: Yes, I believe so.

Mr. Thomas: Is it automatic? I'm just curious.

Mr. Scalise: If they comply with the regulation in the ordinance which is they need to be in a manufacturing district, but if the Board were to grant a variance, then, I believe, that condition wouldn't be applicable and if they complied with all the other, as far as fencing, containing, keeping stuff on site, preventing a run-off, I mean they would have to provide the insurance and it would have to be renewed once a year after they paid the fee...

October 4, 2006

Mr. Scolton: ...do the same thing Mr. Weinstein does...

Mr. Thomas: Okay.

Mr. Scolton: And, I believe all those conditions are part of the site plan review which has been before the Planning Commission and all the engineering things that are just sitting there waiting for approval or not approval or modification, but they have been developed and presented to the Planning Commission.

Mr. Rice: It is halfway through that process.

Ms. Howig: Okay. A motion please?

Ms. Ditonto: I would move that the petition of Goodman Services, represented by Bruce Scolton of 414 Fairmount Avenue for a Use Variance be allowed, as long as the conditions be considered by the Planning Commission that there be no scrap on the ground overnight at that location and that be part of the Planning process

Mr. Thomas: I'll second it so we can get to the vote.

Ms. Ditonto: I have to show why, I believe I have to show why...and that it does not change the essential character of the neighborhood.

Denied: 3 ayes, 2 nays (Thomas, Howig)

Mr. Thomas: I voted nay and I guess the reason is I just can't convince myself that there's an economic hardship.

Ms. Howig: We need four votes for approval and we did not get that so your petition has been denied. You'll be notified by mail from the City. Any further business?

There being no further business, the meeting was adjourned.

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