

Zoning Board of Appeals
City of Cortland
June 14, 2010

A regular meeting of the Zoning Board of Appeals was held on Monday, June 14, 2010, at 5:00 p.m. in the Common Council Chambers at City Hall.

Present: Chair Dailey, Comm. Brown, Haskell, Hickey, Wickman and Wilcox

Staff: Mayor Feiszli, Alderman Hayes, Corporation Counsel Ron Walsh, Zoning Officer Bruce Weber and Cheryl Massmann, Deputy City Clerk

Item No. 1 – 19 W. Court St. – (DeVecchio)(R4) – Application for Interpretation of Zoning Officer’s Decision (Public Hearing has been closed).

Vice Chair Hickey announced that Chair Dailey had recused himself from the proceedings because of professional obligations to the applicant and she would be chairing in his absence. She noted that this was a continuation of an application for interpretation of the Zoning Officer’s decision and that the public hearing had been closed. The Board took additional time to consider all of the information that was presented at the last meeting.

Comm. Wilcox noted that she was not at the last meeting, but had read over all of the information from that meeting and she asked if they were here strictly to decide whether, in fact, to uphold the Code Enforcement Officer’s denial of the certificate of occupancy. She asked what relevancy any of the rest of this had at this point in time. Vice Chair Hickey noted that the Zoning Board of Appeals was being asked whether or not to uphold the Code Enforcement Officer’s decision. She explained that Mr. Chatfield had made a number of arguments from his perspective in support of his client’s right to go ahead and increase the number of dwelling units because of the increased parking on the site.

Comm. Wilcox stated that the certificate of occupancy did not address the number of units in the building, so she asked why they were even discussing the number of units in the building. She asked if it was because the building itself meets the regulations to give the certificate of occupancy or not. Comm. Wilcox asked what the criteria was for giving the certificate of occupancy. Was it the number of units or was it the size of the building.

Corporation Counsel Walsh stated that the certificate of occupancy was premised on a properly approved site plan that takes into consideration a number of factors, not the least of which is parking, the design of vehicular and pedestrian movements and consideration of whether or not that sufficiently provides for the safety of the general public. Comm. Wilcox asked if he had

something that stated exactly what criteria Mr. Weber uses in which to grant or not grant a certificate of occupancy. Corporation Counsel Walsh stated that he had presented to the Board, if they chose to uphold his position, a rationale that makes sense. He noted that the Planning Commission is really required to make a determination in granting a site plan, whether the site plan adequately protects the safety of the general public with respect to vehicular and pedestrian movements. Comm. Wilcox noted that she wasn't talking about the site plan, but the certificate of occupancy. She noted that the site plan had already been approved and reminded him that the Zoning Board was only here to deal with the certificate of occupancy. Corporation Counsel Walsh noted that the site plan was only approved for seven (7) units. Comm. Wilcox stated that from what she had read in the minutes that it had been approved for the size and the character of the building, not approved for the number of units. Vice Chair Hickey noted that was the point that the applicant's attorney was making. Comm. Wilcox asked if the Zoning Board had anything in writing that showed them one way or another. She noted that the Zoning Board was being asked to make a decision based on conjecture or whatever.

Corporation Counsel Walsh stated that this was not conjecture and that the initial site plan that was approved states seven (7) units. Vice Chair Hickey noted that when this came to the Zoning Board for the change in parking dimensions there was no indication that there was going to be anything other than seven (7) units, there was no mention, at all, in the change in the plan. Comm. Wilcox noted that they weren't talking about that today, they were talking about whether Mr. Weber was within his right to not grant the certificate of occupancy and the rest of it, in her mind, was not relevant. Corporation Counsel Walsh noted that the question was whether the certificate of zoning occupancy can be granted for a site plan that isn't consistent or circumstances not consistent with the site plan that was approved. He felt it was inappropriate to grant a CZO for a building that is not consistent with the approved site plan.

Comm. Wilcox asked for a copy of the approved site plan that she could see that stated seven (7) units. Zoning Officer Weber noted that it was included in the application. Comm. Wilcox indicated that she did not have it. Comm. Wickman noted that it was in the minutes of the Planning Commission. Comm. Wilcox felt it was ambiguous, with one person saying one thing and another person saying something else. She wanted to read for herself what the Planning Commission actually approved. Comm. Wickman noted that Comm. Jo Schaffer from the Planning Commission was present in the audience. Comm. Wilcox stated that she was not asking for someone to speak to that, she wanted to see it in writing. Zoning Officer Weber noted that he believed on the map that Mr. DeVecchio submitted with his request for the certificate of zoning occupancy, and he clarified that there is a difference between a certificate of occupancy and a certificate of zoning occupancy. He noted that a certificate of occupancy is based on issuing of a building permit for that construction and the issuing of a certificate of zoning occupancy is based on compliance with the site plan and the approval that he

has from the Planning Commission. He explained that the minutes of the Planning Commission was also supplied to the Zoning Board of Appeals and if Comm. Wilcox had not received that information that has been provided and, in fact, in Mr. DeVecchio's application, the site plan indicates seven (7) units on the application itself. Comm. Wilcox noted that Zoning Officer Weber was telling the Zoning Board that a certificate of occupancy which in these minutes that she read from last month, Mr. DeVecchio was asking for and you denied, now you're saying that there is a certificate of zoning occupancy that is something different and your saying that is what is being applied for. Mr. Weber stated that there was a difference between the two and people will use a certificate of occupancy as an umbrella type situate to cover that and that is what is being asked for here and it's a certificate of zoning occupancy. That is what this is about, it's not that the building met the building code, it's that the site and use had met the site plan that had been approved by the Planning Commission. In other words, the number of parking spaces, the drainage; that is in regards to the use of the property, not necessarily the inside of the building meeting the building code. That's the difference between the two.

Mr. Chatfield, Mr. DeVecchio's attorney, objected to Mr. Weber speaking. He noted that he was one of the parties to.... Corporation Counsel Walsh noted that the public hearing was closed..... Mr. Chatfield noted that Mr. Weber should not be able to testify. Corporation Counsel Walsh noted that Mr. Weber was naturally entitled to advise.... Mr. Chatfield stated that he was appealing Mr. Weber's decision and noted that he was an advocate and that Corporation Counsel could speak and Mr. Weber couldn't. Corporation Counsel Walsh noted that Mr. Weber could speak and that Mr. Chatfield could not. Mr. Chatfield stated that his objection was on the record. Comm. Wilcox asked if Mr. Chatfield could speak if a question was asked from the Zoning Board of Appeals. Various Zoning Board members noted that the public hearing was closed. Comm. Wilcox noted that she had the information that she had asked for. Vice Chair Hickey noted that she could speak from the standpoint of someone who had been here for the application where he changed the dimensions of the parking spaces and at that point, the plan that was presented to this Board was a plan for seven (7) dwelling units and she noted that the discussion on the additional parking spaces centered simply on the convenience of the residents and additional visitors that might come in and since there is not on street parking on Court Street, it would be helpful to have some additional parking spaces, but there was never any discussion, at any time, about changing the number of dwelling units and that was very clear. Vice Chair Hickey felt that there was no need to go back to the record. Comm. Haskell noted that it was always the Zoning Board's intent to follow the direction of the lead agency, which was the Planning Commission, who said they all agreed to having seven (7) units, which is another reason the Zoning Board changed the regulations for parking. Vice Chair Hickey and Comm. Wickman agreed with that statement.

Vice Chair Hickey asked if there was any other discussion or questions from the Board members. Comm. Brown asked how they would word what they were going to vote on. Vice Chair Hickey stated that they should make sure that they were clear that they were being asked to either support or disagree with the interpretation made by the Zoning Officer. Vice Chair Hickey asked that they take a look at the material they had been provided with, noting that this was a denial based on the changes in the plans. She asked if any Board member needed additional information or if they had any questions on what exactly the argument was. Comm. Wickman noted that they had heard the argument over and over. Comm. Wilcox felt that the argument was irrelevant and that the certificate of occupancy had nothing to do with going back to Planning. She noted that her vote was a "No", if they were going to take and vote and she stated that she disagreed with the Zoning Officer's decision. Comm. Brown stated that he didn't think that was what the vote was on. Comm. Wilcox stated that was what the Board was being asked to vote on, whether to uphold his decision or not, that's exactly what we are being asked to vote on. She noted it was an application for interpretation of his decision. Comm. Brown noted that Comm. Wilcox was saying that if there are seven (7) units going in, then it's okay. Comm. Wilcox stated that if he conforms to get the certificate of occupancy, he should be granted it. Comm. Brown noted that if there are seven (7) units though, it doesn't conform to nine (9). Comm. Wilcox noted that it's for the outside of the building and if everything else in the building conforms to meet the criteria, it meets the criteria in her mind. Corporation Counsel Walsh noted that the Planning Commission made its determination based upon information that is no longer operative. He explained that the Planning Board made its determination on seven (7) units, upon a certain level traffic, a certain amount of pedestrian activity..... Comm. Wilcox asked why someone couldn't provide her with that information and that it must be somewhere here. Corporation Counsel Walsh noted that it was in the packet. Comm. Wickman noted that with all due respect, if Comm. Wilcox had been at the last meeting and sat through the lengthy discussion that was had and with all the information that was received, she would probably not be taking this position that you have taken. Comm. Wilcox stated that she would be taking exactly the same position because she has read all of the information three (3) or four (4) times and what was discussed at the last meeting was things that she felt were not relevant. She asked if Mr. Weber in his right to deny the certificate of occupancy and that was the only question the Zoning Board was supposed to be looking at. She noted that the Board took how much time to discuss all other things that she felt were irrelevant. Comm. Brown noted that the Board didn't discuss that much; it was information that came from the opposite side. Corporation Counsel Walsh stated that he didn't understand why Comm. Wilcox would think that it would be appropriate to issue a certificate of zoning occupancy for nine (9) units when a site plan was approved for only seven (7). Comm. Wilcox stated that she was not convinced that the site plan was approved for seven (7) because he couldn't show that to her. Comm. Brown stated that he had seen it on the blueprint and Comm. Wickman agreed with that. Comm. Wickman told her that evidence could be

provided to her. Comm. Wickman went on to state that most of the time during the last meeting was spent listening to comments made during the public hearing and, of course, reading. Comm. Brown noted that he could see her argument that if it was seven (7) units, then it would be okay. Mr. Weber showed a drawing to Comm. Wilcox noting four (4) apartments in one building and three (3) in another building. Comm. Wilcox asked him where the Planning Commission's actual approval was and asked for the actual item where this was approved be shown. Zoning Officer Weber noted that it was in minutes that had been supplied earlier. He went on to note that what he was indicating to the Board was that what Mr. DeVecchio had submitted to him, which was an existing three (3) apartments and a new four (4) apartment building, that was the site plan that was approved by the Planning Commission. Comm. Wilcox noted that was still not what she had asked.

Vice Chair Hickey noted to be open with everyone she noted that the discussion taking place was that the Board still had another month before they had to make a decision on this. Her question was what was to be gained by taking that time. She asked the Comm. Wilcox if she felt so firmly that she needed to see the Planning Commission's decision in writing that she could not make a decision based upon the evidence given. Comm. Wilcox stated that if she could not see it in writing, her vote tonight would be no. Comm. Brown asked her what "no" meant. Comm. Wilcox stated that it meant that she did not agree that Mr. Weber should have denied the application. Comm. Brown noted that he wanted her to see all of the evidence and if she did not have it, then they might have to wait another month, unfortunately. Comm. Wilcox stated that she thought the Planning Commission would have done a resolution to approve and where is that resolution and what does it say. Corporation Counsel Walsh stated that the Planning Commission would have approved the site plan as presented and in that presentation was a map indicating seven (7) units. Vice Chair Hickey stated that there would've been indications in the conversation recorded in the minutes that would address alterations in the site plan. She noted that there would not have been approval of something other than what was presented without documentation of that approval in the minutes of that meeting.

Comm. Brown asked if there were no windows in the basement, there couldn't be anyone living in the basement, anyway. Corporation Counsel Walsh stated that was not the issue before this Board now. Corporation Counsel Walsh noted that in the application for a CZO before the Board now, Mr. DeVecchio indicated that there were no changes to the façade and based upon that assertion, that was why the decision was made. Zoning Officer Weber asked if the transcript from the first hearing (April 12, 2010) that was supplied, had been read. He noted that in that transcript, Mr. Chatfield indicates that they have approval for seven (7) units. Comm. Wilcox noted that she was not at the meeting and asked why it was thought not important enough to get it to her as a Board member, if the Board wanted her to vote on this. Vice Chair Hickey noted that she hated to drag this out to another meeting, but if Comm. Wilcox felt that she needed to go

through all of that, they would look at available dates for a special meeting. Comm. Wilcox noted that she wasn't asking them not to take a vote tonight. Comm. Wickman noted that there was a member of the Planning Commission present. Comm. Wilcox stated that she didn't care to hear someone speak to this; she wanted to read it and see it. Vice Chair Hickey noted that there was the document from Mr. Chatfield, the transcript from the first meeting, which was the public hearing. She noted that this goes back a long ways. Comm. Wilcox noted that it should be in writing somewhere. Vice Chair Hickey noted that if Comm. Wilcox needed that, they would probably have to hold a special meeting for that to happen. Corporation Counsel Walsh stated that Vice Chair Hickey could call the question tonight. Vice Chair Hickey stated that she hated to do that when the Board was down a couple of members because it takes four (4) to decide a question and there were only five (5) people here. Comm. Wickman stated that he felt that most of them were anxious to vote tonight. Vice Chair Hickey noted that she was somewhat uncomfortable in forcing a vote if someone felt that they didn't have enough information. She noted that having been here for the meetings and also for the meeting where the parking was addressed, she felt that she had a little more background on this and a little more of a sense of what was presented and what was approved and what the history of it is and she doesn't feel that she has to see all of that. Zoning Officer Weber came forward with a section of the transcript from the April meeting and read Mr. Chatfield's words. He read, "I think it is fair to say, and I don't want to mislead you, I think it fair to say that the Planning Commission was of the assumption that the rear building was going to house four (4) units and there were three (3) units in the front for a total of seven (7) units." Mr. Weber noted that those were Mr. Chatfield's own words.

Mr. Chatfield asked if he could testify also. Corporation Counsel Walsh stated that he could not and that Mr. Chatfield's objection had been noted. Mr. Chatfield stated that what Mr. Weber stated that said, was not what it said and he asked that the Board read it carefully. Vice Chair Hickey asked the Board what they would like to do noting that if they decided to delay they would have to schedule a special meeting because the sixty (60) days would elapse before the regularly scheduled meeting in July and the fourth of July Monday might complicate things as well. She noted that the Board had the choice to make a decision now or wait for more information. Comm. Wickman asked her to poll the Board. Comm. Brown noted that he wanted to vote. Comm. Wickman favored a vote tonight. Comm. Haskell felt they could vote tonight. Corporation Counsel Walsh asked if they did vote that they vote to uphold the decision of the Zoning Officer and that they use the finds in the fact sheet. Comm. Haskell noted that if he could bring his strange logic into this whole thing, he stated that he had always supported Mr. DelVecchio's right to do what he is doing and he was very pleased to see that and the Planning Commission had come to an agreement and now, somehow, that agreement seems to have been changed, but he also supports Mr. Weber because he is following the plan of the Planning Commission. Vice Chair Hickey noted that if the Board was going to act they needed a motion to act

on. Comm. Brown noted that they would need the right motion. Comm. Wilcox noted that the motion was whether to accept the interpretation of the Zoning Officer's decision. Vice Chair Hickey noted that was right and ultimately that was the motion, but also noted that a formal motion had not been made yet and in a case like this where the Board had legal involvement on both sides and they include the findings that led the Board to that motion so that it is clear in the motion what was considered in getting to that point.

Comm. Wilcox stated that she could also make a motion to deny the Zoning Officer's decision. Vice Chair Hickey agreed that she could.

Comm. Wilcox made a motion to deny (the Zoning Officer's decision). There was no second and the motion failed.

Comm. Wickman wished to make a motion to support the Zoning Officer's decision.

Corporation Counsel Walsh assisted with the motion. Mr. Chatfield objected to his participation in this process noting that two (2) years ago Mr. Walsh spoke against this project as an individual, against his client's interest and failed to disclose that conflict of interest. There was some reaction from the audience. Vice Chair Hickey reminded members of the audience that the public hearing was closed.

On a motion by Comm. Wickman, seconded by Comm. Brown, voted and approved to Resolve: That the Cortland Zoning Board of Appeals (the "ZBA") hereby, affirms and upholds the Code Enforcement Officer's denial of a request for a Certificate of Zoning Occupancy/Statement of Use (the "CZO") on the following findings:

The ZBA notes that under § 135-B 6 of the Code of the City of Cortland (the "Code"), before making its decision regarding a site plan, the City of Cortland Planning Commission (the "Planning Commission") shall, among other findings, make general findings regarding whether the design of vehicular and pedestrian movement, including handicapped accessibility, provides for the safety of the general public; and

under § 300-135 B 7 of the Code, whether the parking and loading facilities are adequate and whether the location of same is appropriate. Compliance with parking regulations set forth in § 300-74 of the Code *shall not constitute a determination that the foregoing requirements have been satisfied*; and

under § 300-73 of the Code, the Planning Board may, upon special findings, require more parking spaces than that which is specified in § 300-74; and

the Planning Commission approved a site plan for 19 West Court Street (the "Premises") based upon the presence on site of seven (7) residential units; and

the applicant seeks a CZO for nine (9) residential units on site; and the ZBA granted the Applicant a variance to reduce the required size of parking spaces on the Premises, based, in part upon the volume and intensity of vehicular and pedestrian movement anticipated from the presence of seven (7) units on site, and not nine (9) as well as the impact of same upon the safety of the general public; and

the ZBA finds that the addition of two (2) additional units on site may substantially increase volume and intensity of vehicular and pedestrian movement affecting the safety of the general public; and that presence of eighteen (18) parking spaces on the Premises may not be a sufficient number to provide for the safety of the general public; and

the ZBA further finds that based upon the potential increased vehicular and pedestrian traffic that will result from the addition of two (2) units, the Planning Board must make findings as to whether the number of parking spaces on the Premises and the design of vehicular traffic on the Premises is sufficient to provide for the safety of the general public; and whether the parking and loading facilities are adequate and whether the location of same is appropriate.

The Zoning Board of Appeals therefore upholds the determination of the Zoning Officer's denial for the Applicant's request for a CZO for the Premises.

Mr. Chatfield asked for a roll call vote. Vice Chair Hickey called the roll.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Wickman	Aye
Comm. Wilcox	Nay		

Mr. Chatfield noted that he assumed that within five (5) business days he would be sent a copy of the resolution as required by law. Corporation Counsel Walsh stated that Mr. Chatfield would have to follow the proper process and to file the proper request. Mr. Chatfield told him no, that section 81 of the General Cities Law states that the applicant will be provided with a copy of the determination of the Board within five (5) business days of the filing in the City Clerk's Office and that is all that he is asking. Vice Chair Hickey noted that they would see that that happened.

RESOLVED THAT THE APPLICATION FOR INTERPRETATION – 19 W. COURT ST. – (DELVECCHIO)(R4) – APPLICATION FOR INTERPRETATION OF ZONING OFFICER'S DECISION – DECISION OF ZONING OFFICER TO BE UPHELD AS PER THE FINDINGS.

Chair Dailey returned to the meeting to preside over the remaining agenda items.

Item No. 2 – 90 Lincoln Ave. – (Baccile)(R2) – Area Variance - Two Unit Conversion from a Single Family – Continuation of Public Hearing

Gary Baccile was present to address questions in the letter he received from the Cortland County Planning Board. He noted that he is trying to make the house into a two (2) family and that it is zoned to be a two (2) family. He noted that there are several things that he needed to do to make the property usable to what it was. One of those things was moving the driveway from the left side of the house to the right side of the house because there is not adequate distance on the left side of the house to have a driveway. That was part of the site plan that he submitted. The proposal was for the driveway to be on the right side of the house with enough parking space for four (4) cars in the back. He planned to use crushed limestone for a driveway surface and he wondered if there was any problem with that. He noted it was a popular choice in this area. He was told by DPW that approved contractors have to come to them and apply for a permit, pay a fee and then they could do the new curb cut for the new driveway. He noted that has not been done yet, because there was a tree in the way and it has now been removed, so that application will be forth coming as soon as they are ready to do the work. He didn't see any problem with that. He was not sure he understood the concern about lot coverage. As far as the driveway and the parking area, there was enough space for four (4) cars and there will never be more than four (4) cars in that driveway and parking area because he has other means to park cars in other places. He noted that the house itself is large with five (5) large bedrooms and actually has room for sixth (6th) bedroom. He noted that from a single family standpoint, it was way too big for a single family and better suits two (2) families by today's amount of people in an average family. He noted that the rooms were all large and he is asking to be allowed to convert this house into a two (2) family.

Comm. Wilcox asked if this had ever been a two (2) family. Mr. Baccile stated that it had not, but was zoned for a two (2) family and noted that it was an R2.

Anne Doyle, 70 Lincoln Avenue, in Ward 2. She noted that Ward 2 is the smallest in the City, but has the most density and it has only been an R2 since 1971. She stated that in the 1971 Master Plan it stated that Ward 2 is too small and that there was too much density and there has been more and more since that time. She sees no reason for this house to be made into a two (2) family house when it's been a one (1) family house. She admitted that there was a lot of property at that address and room for six (6) bedrooms. She noted that it had been a single family house for the past thirty (30) years and there was no reason for Ward 2 to be any more populated than it is and asked that the Board deny this request and any other house that is being asked to become a multi-family house. She noted that there are only ten (10) families or so left on Lincoln Avenue, but that was not the case years ago. She also asked that they not allow

any conversions of any more houses on Lincoln, Groton, Maple or Madison or other parts of Ward 2.

Mayor Feiszli wanted to mirror what Anne Doyle said. She noted that the City is currently going through a new comprehensive plan for the City and one of the parts is to look at zoning throughout the City and going through the process to try to maintain the neighborhoods and reduce density in some areas while increasing it in some others. She hopes that the ZBA considers the current density before approving this application.

Robert Bombard, 88 Lincoln Avenue, next to Mr. Baccile's property. He is concerned with the quality of life that his family and he will be faced with. When they moved there nine (9) years ago there was a family on both sides of his house and since then, college housing has moved in. The opposition he has is to the elimination of greenery, the elimination of trees because a driveway has to be moved to accommodate multiple families. He noted that it would take away from the neighborhood quality of life. He noted increased traffic, more noise and he has concerns regarding crime on Lincoln Avenue. He noted earlier this year that there were three (3) issues in that area and he wants to make sure that his family is not affected and that other neighbors are not affected. He also noted concerns regarding parking. He knows there will be more than four (4) cars in the parking area for he has seen many college houses established where parking becomes a u-turn and people encroach on other people's land. He noted that they may say one form of parking may be stated, but it's not going to happen that way. He noted that families are steadily dwindling in that area and the population density is huge for a certain amount of time and then it's gone. He strongly suggested that the ZBA deny conversion to a two (2) family for the benefit of the community.

Kira Weber, of 92 Lincoln, moved in March right next door to 90 Lincoln which was a single family. She was hoping to increase the value of her house, but noted that by his conversion of that house to a double family for student housing it would decrease the value of her property as well the rest of Lincoln. She asked how he planned to regulate the four (4) cars in the parking lot and she also noted that Mr. Baccile had stated that it was to be a double family, but he has it advertised as student housing out front and that is also a concern to her. She also concerned about the trash because she's been picking it up at her house. Mr. Baccile told her that would not be a concern as he would have regular trash pickup and it would be stored in the barn in back until then.

Lance Sherman lives at 91 Lincoln and he is concerned regarding the student housing increase. He is concerned about the increase in crime. He has a large family and he noted that he would've loved to have had the chance to see the house at 90 Lincoln to see if it was something they might be interested in. Now it's student housing. He would like families in the area not more students.

Shirley Ellsworth of 93 Lincoln is concerned about the change from single family into a two family home is a way for him to get beyond the three (3) unrelated people in the household. She has lived at 93 Lincoln for fourteen years now and she knows how big his yard is and how big that house is. She's been in the house numerous times. She noted that even with the removal of the trees and shrubs in the back, the place is small for cars. She noted that the cars will come into the side driveway and do the circle which will run onto the Weber property and then if they don't park back there, they'll park in the street, which is no parking. That does not prevent them from doing that and if they don't do that they'll park in front of the house. She noted that there's been enough college students around that she knows that he might say that there will only be four (4) people who will be allowed to park there, but that's not what is going to happen. She's seen it too many times. She has nothing against college students, most are good kids with only a few trouble makers. She asked them to consider that two doors down is another family with small children. She noted that they already drive down the street like ninety miles an hour and then you have to consider the fact that there is a public elementary school the next street over. She asked them to consider how much further they were going to allow college student housing to encroach on the residential areas.

Alderman Stephanie Hayes, 77 Lincoln, noted that in the Code Book that the reason an R2 residential district allows for slightly higher density neighborhoods with a mix of single and two (2) family homes. Although "slightly higher" and "mix" are not outwardly defined and are subject to interpretation she wanted to offer her own thoughts. She noted that since her move to Lincoln Avenue she has watched the conversion single family homes into another type. She noted that there is less of a mix and more in line with R2 zoning. She understood the purpose of variances, but granting them has led to a change in the neighborhoods that has diminished the mix and indirectly caused the area to become informally R3 or R4 zoning. We've watched the single family homes and families leave and units come in; either student housing or rental areas. Each year she watches the R2 zoning district diminish and it saddens her. She would like to preserve the mix. She will put up with slightly higher density, but not to the point of R3 or R4 zoning.

Ray Parker is a Legislative Representative for District 2. He agrees with Anne Doyle and he is trying to market the City as a family oriented City. He noted that he can't do that if the City is continually changing R2 into R3 and R4. He remembers Lincoln Avenue when growing up and it was a very family oriented street. He thinks that this decision to change this home to an R2 will only start dominoing to other streets.

Mr. Baccile stated that the area already was zoned R2 and the house was large enough for two (2) families. He would rather put two (2) families in there. He noted that the people who rent from him have a good track record and he has never had any problems. He had one of his student tenants represent him here

at a meeting. He appreciates everyone's comments and agrees with most of it and feels the neighborhood should be preserved, but it should be kept in a certain manner. He noted his property had not been touched in thirty (30) years and he made the property 100% better than what it was when he bought it. He noted that with regards to Mr. Bombard who lives next door, he had a minor discussion with him and he asked what his real concern was. Mr. Baccile noted that he had to put the driveway on the right hand side of the house because the left hand side was not legally wide enough and should never have been allowed to begin with. In putting the driveway on the right hand side of the house, puts it adjacent to Mr. Bombard's driveway and his driveway is directly adjacent to Mr. Baccile's property line. He noted that it ended at his property line. Mr. Bombard's concern was will anybody back in his driveway and ruin his driveway or accidentally hit someone coming out of his driveway. He totally agreed with Mr. Bombard and his plan was to put a four (4) foot greenspace with a stone barricade down the side between his house and my house so that cannot happen. He agreed with Mr. Bombard. He felt that he could address any concerns without a problem.

Mr. Bombard noted that there are good college students out there, but the point is that the elimination of the families on the street is snowballing. Families need to be maintained, otherwise there will be no one in the area in the summer months except for landlords upgrading their college housing. He doesn't want to have to move. He noted that trees are already down and that Mr. Baccile has pruned vegetation. He also noted that there will be lots of cars in and out and moving around.

Anne Doyle noted that she lived on Lincoln Avenue for forty-eight years and there have been ten (10) houses that have become student housing since 1972. She is also concerned regarding students trespassing on the property of individuals. She begged the ZBA to keep the neighborhoods.

Lance Sherman noted that he used to really decorate for Halloween, but someone came up on his porch and the decorations were stolen. He doesn't decorate for any holidays any more. He also noted that he would like to live in one of the units in that house and wished that he could have afforded the house, but it was sold before he even got a chance to look at it.

Comm. Wickman asked if Mr. Baccile had considered remodeling this as a single family home. Mr. Baccile has no problem doing that, but the house is too big for that. Comm. Hickey asked how long the property was on the market as a single family home. Mr. Baccile noted that he didn't know. Anne Doyle noted it was less than two months.

Comm. Wilcox noted that this house had five (5) bedrooms and not six (6), and there are still families, as we have just heard, that could use a five (5) bedroom house. She felt that it was nice to see that neighborhood coming around as a

neighborhood and grew up on Lincoln Avenue and she would like to see it stay as a single family. Comm. Wickman agreed. Anne Doyle spoke again.

There was no one further to speak, therefore the public hearing was closed.

On the motion of Comm. Wilcox, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 90 LINCOLN AVE. – (BACCILE)(R2) – TWO UNIT CONVERSION FROM A SINGLE FAMILY BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for an area variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. Yes
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. Look at using it as a single family home
3. Whether the requested area variance is substantial. Yes
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. Greater density of parking and traffic
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes, purchased as a single family home

On the motion of Comm. Wilcox, seconded by Comm. Brown, voted and denied.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 90 LINCOLN AVE. – (BACCILE)(R2) – TWO UNIT CONVERSION FROM A SINGLE FAMILY BE DENIED.

Item No. 3 – 58 Owego St. – (Yashchenko)(R2) – Public Hearing – Area Variance for Front Yard Setback

Mrs. Yashchenko was present. She stated that she is not changing anything, but the front porch steps. She wants to protect her front door by making a platform over the original steps to the house and making new steps from the sidewalk to the side porch. The platform will be as large as the steps. This will bring the steps closer to the front property line than what is allowed. They will be one (1) foot six (6) inches closer than what it should be. Comm. Wickman noted that this would be a minor change.

There was no one further to speak, therefore the public hearing was closed.

On the motion of Comm. Wickman, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 58 OWEGO ST. – (YASHCHENKO)(R2) – AREA VARIANCE FOR FRONT YARD SETBACK BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for an area variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. No
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. No
3. Whether the requested area variance is substantial. No
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. No
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes

On the motion of Comm. Brown, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

Comm. Wilcox

Aye

Comm. Wickman

Aye

RESOLVED THAT THE AREA VARIANCE – 58 OWEGO ST. – (YASHCHENKO)(R2) – AREA VARIANCE FOR FRONT YARD SETBACK BE APPROVED FOR A ONE AND A HALF (1 ½) FOOT FRONT YARD SETBACK.

Item No. 4 – Area Variance – 97 Evergreen St. – (Minnig)(R1) – Area Variance to allow Six (6) Foot Fence in Front Yard

Matthew Minnig was present. He stated that he lives on the corner of Evergreen and Route 281. He noted that he currently has a fence, but it is not back toward the property line on Route 281. That property behind the fence has lots of foot traffic between there and Route 281 as well as being used as a dog park. He wants to move the fence back and install a six (6) foot high privacy fence with six (6) inch wide boards to reclaim his yard. Since this is considered a property with two (2) front yards, he has to obtain a variance. The fence will be behind the house along Route 281. The actual front of his house is on Evergreen. Comm. Brown noted that this was a unique situation. Mr. Minnig also noted that each of the neighboring houses that had a yard going south had a six (6) foot high fence. He wanted a wooden fence. Comm. Haskell asked him if he had spoken with his neighbors. Mr. Minnig stated that yes he had and that the neighbors were supportive.

There was no one further to speak, therefore the public hearing was closed.

On the motion of Comm. Hickey, seconded by Comm. Wickman, voted and carried.

Chair Dailey

Aye

Comm. Brown

Aye

Comm. Haskell

Aye

Comm. Hickey

Aye

Comm. Wilcox

Aye

Comm. Wickman

Aye

RESOLVED THAT THE AREA VARIANCE – 97 EVERGREEN ST. – (MINNIG)(R1) – AREA VARIANCE TO ALLOW SIX (6) FOOT FENCE IN FRONT YARD BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for an area variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. None demonstrated, probably a benefit
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. No
3. Whether the requested area variance is substantial. Yes

4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. No

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes

On the motion of Comm. Wilcox, seconded by Comm. Wickman, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 97 EVERGREEN ST. – (MINNIG)(R1) – AREA VARIANCE TO ALLOW SIX (6) FOOT FENCE IN FRONT YARD ALONG THE BORDER WITH ROUTE 281 BE APPROVED.

Item No. 5 – Use Variance - 243 Pt. Watson St. – (Wilkinson)(GB) – Use Variance – Conversion of Commercial Building to Two Units

Mr. Weber indicated that this would need a referral to City and County Planning.

Mr. Wilkinson was present. He stated that this property had been a two (2) family in the past and that it was not suitable for a commercial property. It was entirely an insurance firm at one time. Comm. Brown asked how many kitchens the building had. Mr. Wilkinson noted that it still had two (2) kitchens. He stated that the two (2) units in the building had been side by side and not up and down. Mr. Wilkinson also stated that he also wants to build a large garage in the rear to store machinery and tools.

On the motion of Comm. Hickey, seconded by Comm. Wilcox, voted and approved.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE USE VARIANCE - 243 PT. WATSON ST. – (WILKINSON)(GB) – USE VARIANCE – CONVERSION OF COMMERCIAL BUILDING TO TWO UNITS BE REFERRED TO CITY AND COUNTY PLANNING.

Item No. 6 – Area Variance – 128 Tompkins St. – (Seales)(R1) – Area Variance – To Allow for Lot Coverage Greater than permitted

Gary and Judd Seales were present. There will not be an increase in parking on the property, but they plan to shift three (3) parking spaces to another side. This has always been a three (3) unit building with nine (9) parking spaces, so parking is not an issue. Gary Seales noted that they used to have easy access via a neighboring parking area, but that no longer belongs to the church, but to Mr. Reygers who has now cut off access. This has resulted in a problem to access some of the parking spots. Mr. Seales would like to shift the last three (3) spot twenty (20) to thirty (30) feet to the west and have a turning area and then have a thirty (30) by twenty-six (26) foot parking area with diagonal parking to the north. Then his tenants could come in, turn around and park on the diagonal.

Comm. Wilcox asked if the access was a deeded right of way. Gary Seales replied that it was. Judd Seales stated that they had tried to work with Mr. Reygers to lease access, but he cited liability issues. Chair Dailey asked what the garage on the property was used for. Mr. Seales indicated that it was used for storage.

On the motion of Comm. Wilcox, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 128 TOMPKINS ST. – (SEALES)(R1) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN PERMITTED BE REFERRED TO CITY AND COUNTY PLANNING.

Item No.7 – Area Variance - 9 Owego St. – (Seales)(R2) – Area Variance – To Allow for Lot Coverage Greater than Permitted and to Allow for 8 ½ Foot Parking Spaces

Gary Seales wants to have a fifty (50) foot by forty (40) foot parking area for six (6) spaces. He noted that there is a shared driveway with this property and that neighbors park on their portion of the driveway. He has four (4) spaces in the rear and that is not sufficient. The neighboring property owner, Bill Brown, has no issue with rear property parking and just asks that the greenspace be cleaned up .

On the motion of Comm. Hickey, seconded by Comm. Wilcox, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 9 OWEGO ST. – (SEALES)(R2) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN

PERMITTED AND TO ALLOW FOR 8 ½ FOOT PARKING SPACES BE REFERRED TO CITY AND COUNTY PLANNING.

Item No. 8 – 53 Lincoln Ave. – (Doerler)(R2) – Two Unit Conversion from a Single Family – Tabled

Item No. 9 – Minutes – May 10, 2010

On the motion of Comm. Wickman, seconded by Comm. Hickey, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Abstain	Comm. Wickman	Aye

RESOLVED TO APPROVE THE MINUTES OF MAY 10, 2010.

Adjournment

On the motion of Comm. Hickey, seconded by Comm. Wilcox, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye
Comm. Wilcox	Aye	Comm. Wickman	Aye

I, BRIAN DAILEY, CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NEW YORK, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 14TH DAY OF JUNE, 2010.

BRIAN DAILEY, CHAIRPERSON