

Town of Bethlehem  
Board of Appeals

March 3, 2010

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York, was held on the above date at the at the Town Offices, 445 Delaware Ave, Delmar, New York.

**Present:** Daniel Coffey, Chairman Board of appeals  
Michael Moore, Board of Appeals Counsel  
Matthew Watson, Board of Appeals Member  
Kenneth Umina, Board of Appeals Member  
Lennie Micelli, Board of Appeals Member  
Dave DeCancio, Board of Appeals Member  
Justin Harbinger, Assistant building Inspector  
Mark Platel, Assistant Building Inspector  
Sam Messina, Town Supervisor  
Thomas Burke  
Peter Lynch  
Michael Tucker  
Luke Mullen  
Gary Mazzairelli  
Susan Jacobsen  
Susan Blank  
John Smolinsky

Agenda: Chairman Coffey called the meeting to order at 7:00 noting that all Board Members are present. The first item on the agenda is a public hearing for Mr. Thomas burke for area variances at 250, 254 & 256 Delaware Ave. The applicant wishes to demolish 2 existing structures on 2 parcels and rebuild one structure on the 2 lots. Mr. Platel, please give us the reason for the hearing.

Yes Mr. Chairman. The applicant is proposing to demolish 2 existing commercial structures totaling 26,574 square feet of commercial space on 2 separate parcels and construct a new, 2 story structure totaling 48,109 square feet of commercial space. The proposed structure will be located over the common property line creating side yard setbacks of 0' where 10' is required.

The other setback variances are from the parking lot to the rear property line and highway property lines. The proposed setbacks to the highway property lines are 4' and 5', where 10' is required and the setback to the rear property would be 2.5' where 15' is required.

The applicant is proposing 183 parking spaces on the site which is 44 spaces shy of the 227 spaces that are required. Also the dimensions of the proposed parking spaces are 9' x 18', instead of the 9' x 20' that is required under the code. The proposed plan shows that the end islands are only 7.5 feet wide not 15' as required and also does not propose any center islands between the end islands which are required to be 18' wide. The final request is for the amount of green space located in the interior parking area. According to my figures the percent of green space is 3.61% which does not meet the 10% required. For the boards information the request for the location of the loading area has been removed after considering some information supplied to me by Mr. Lynch and is no longer applicable. The existing property is located in a Commercial Hamlet Zoning District and the use of the property is as medical offices which are located in one structure, with the other structure currently being vacant.

Chairman Coffey asked for a motion to indent the public hearing notice into the record. On a motion from Matthew Watson and Second from Kenneth Umina with all in favor the motion passed.

Chairman Coffey opened the public hearing giving instruction as to procedure.

Peter Lynch presenting to the Board for the applicant gave a general overview of the existing site located at Delaware and Elsmere Ave in regards to the general location of the site, conditions at the existing site and how his client would like to redevelop the site. Spoke in regards to the existing and past uses of the structures and that they want to consolidate and modernize and improve the access and vision of the site. At this time showed pictures of the site and noted the access being unrestricted. Mr. Lynch gave further information on the existing green space stating that the overall size of the 2 parcels is 2.8 acres and that the existing green space on the site is 4.6%. We have 7 different variance and we (you) need to decide as a board if they are substantial. Asked that the board keep in mind that if this was a virgin site of 2.8 acres we would not be here because the extent of the variances would clearly appear to be substantial but this is not a virgin site. What we propose to do is take the 2 single story buildings and build a new 2 story building, a modern brick building with an entrance at the corner of Delaware and Elsmere with a broken up façade and an entrance at the back corner next to the rear parking area. The front and rear entrance will look the same. I would point out the front at Delaware Ave, we think this is a blighted and obsolete site and also we think that the other building (doctors office) has seen its day too. So it is our contention when you

consider the variances and what we are trying to do this is not a substantial variance this is essentially a restoration of a blighted site that if we do not do something will continue to go downhill.

Mr. Umina, will there would be sidewalks on Delaware since the Elsmere Grade School is across the street and children use that sidewalk to get to school.

Mr. Lynch, the drawing does not show the sidewalk but one will be there as shown on the site plan and that the drawing is only a rendering for you to see what the architecture would be like. The site plan does show the sidewalks on Delaware and Elsmere and they will remain in tack. There will be green space along Delaware where it does not exist now and the unrestricted curb cut on Delaware will be removed as well. The other curb cut on Delaware (should be Elsmere Ave) will move back a distance away from Delaware. One of the key points of the design is to make it safer as far as ingress and egress. For a visual aspect, we are looking for some green space variances that are for the interior parking lot. Let's look at the perimeter of the sight which will be landscaped literally around the perimeter except for the spot which we will talk about later that is 2.5' from the property line. That green space is 21.1% of the site so we are raising the green space bi-fold from what currently exist. One of the things in your parking lot design is 10% green space in the interior parking lot so we have a requirement of 7,582 square feet not counting the perimeter and we cannot achieve that. We have to have the number of spaces that we proposed and designed it to achieve the green space the best way we could. The existing lot does not have any green space what so ever. So what we have is 2 rows of parking with 7.5' wide end isles where 15' isles are required and center islands that are 4' wide and 18' is required and we can't do that, we would lose the parking if we did that.

Chairman Coffey, the center island you are proposing 4'?

Mr. Lynch, Correct. In conversations with Mr. Platel we tried to determine if the 4' row was a center island or not. If does not so be it, the real question hear is in regards to how much green space we have here. So we have 3,364 of interior green space so we are not compliant with that requirement. We have however increasing the overall green space bifold from 4.46 to 21.1% of the total site. But we cannot achieve the interior but we have more than made up from our perspective with the expansive green space along the perimeter which will greatly enhance the overall appearance of the site and as I indicated it will close off the egress from Delaware making for safer ingress and egress. We will still have 1 access on Elsmere and 2 on Booth Rd. The parking requirement really drives the boat here. We have a 2 story building 23,700 square feet roughly per floor. The front portion will be a Walgreens 14,550 square feet

and the balance of the first floor around 9,000 square feet will be medical office as well as the entire second floor. There will be a drive-thru here at this point. The parking, according to Mark's calculations does not match ours but in any case we are proposing 183 spaces and Marks states that we need 227. Clearly we do not meet that. But we feel with the mix of uses here the parking will work. I note that one of the design guidelines in this district is to provide (#16) the number of spaces should be the minimum necessary to adequately serve the intended use. So we have kind of a conflict between a strict reading of the ordinance for the number required by square footage and a guideline where you have the minimum necessary. We feel that with the mixed use the 183 spaces is the minimum necessary to achieve a reasonable use of the site and also on balance and designing the site giving the footprint as well as the green space requirements we have achieved a balance in our design by coming up with 183 spaces. This of course is one of the variance requests. Again if we were starting with a clean slate we had nothing there I suppose it would look like a big gap between what is required. Again keeping with the history of the use of the site we are simply consolidating the existing uses into the single building and expanding the size of the building to accommodate the economy of this site. You have to keep in mind and I am sure you are aware that when you are doing a project you have to have a structure that will generate the income to make the project viable. So this is the reason why we have come up with this structure. This is the minimum size structure in order to make this project economically feasible.

Dave DeCancio, Can you tell me how many spaces there currently are at the medical office site?

Mr. Platel, there are 139 spaces at the medical site and another 47 at the old CVS site for 186 total spaces on both sites.

Mr. Lynch, With no green space except for 4%. Another thing that Mr. Platel mentioned is we are constructing a building on 2 lots and the building is straddling the property line which is the reason for the side line variances that we are seeking. Parking stalls, you will see we have 183 stalls and the town required 9 x 20 and in order to achieve a balance between the number spaces we need and also create the enough green space we could along the perimeter and in the parking lot itself, one of the mechanisms that we chose in our design is parking 9' x 18' and we are not doing this out of a vacuum these are the parking space size in Colonie, East Greenbush, North Greenbush, Clifton Park, Glenville, Guilderland, Albany and Rotterdam. Just some local communities we put in the pack that these dimension work and are accepted in other communities. This is not to say that the 9 x 20 or inappropriate in any way but in balance when you are trying to work with a site and you have a mechanism to change to an appropriate design that is how we were able to achieve some increase in the green space on the site.

Chairman Coffey, the 9 x 18 was part of the zoning codes of the other municipalities.

Mr. Lynch, yes, the letter that was sent by Mike Tucker with Infinigy Engineering shows the allowable parking sizes in other communities. We did not just want to throw out a number so we sited other space size in the area. As you can see we have variances related to parking and interior lot design and we have a couple that I have not been mentioned. We have 49 of the parking spaces are within the highway setback and rear parking lot. At the rear of the lot the distance between the parking and the property line is 2.5 not the 15' required and this entire row is in the setback. Granted if this was abutting a residence I think it would be a factor but what we have is the rail trail and that creates a buffer to the properties on the other side of the trail. Along Elsmere we have 4' to the Property line, not the 10' required. We do have a sidewalk and green space along there and it is offset. The CVS is across the street from here and is the only affected property. The last parking variance is the spaces on Delaware where it is 5' where the access off of Delaware is to the site. So these are the 7 variances that we are seeking and in context we are trying to take this site from becoming a blighted site and it is quickly going in that direction. In fact Luke is here and as we were taking pictures and at the back of Luke's building has graffiti on it and that is what happens to vacant buildings that are not economically viable. As far as tenants for this site we have been working with Wallgreens as the primary and have also been talking too other medical uses but have no leases. But not withstanding the absence of leases this is a zoning question of land use not who the tenant is but it would be medical uses. We think in balance this project takes a very significant corner in the town and brings it up to a modern phase and again we have come up with a design that works and is has a great esthetic appearance with parking to the rear. Not that the building is urban in appearance with the building up on the corner. We can't do this with Wallgreens as a tenant that needs the parking field along the entrances and we also need a flow of traffic through the site. The layout coming in like so allows for the flow of traffic and the loading dock is on the Booth Road keeping it away from the main parking areas on the side and the drive thru is also the same so that you can come through like so.

Mr. Micelli, where is the signage for the property with none being shown on the plan? Is it going to be a monument sign or on the building?

Mr. Lynch, there will be a monument sign would be on the corner of Delaware and Elsmere.

Mr. Micelli, my second question is that the entrance on Elsmere Ave, which is a little up from the CVS entrance across the street. My concern is with it being an in and out entrance and with

left and right turns on to Elsmere, and with the congestion and additional traffic I have concerns. This entrance as well as the Booth Road entrances will be part of the plan so that there is not just an in and out on Elsmere Ave.

Mr. Lynch, Absolutely.

Chairman Coffey, and there will not be an entrance on Delaware Ave?

Mr. Lynch, No, and that is one of the key things that we wanted to control the access off of Delaware Ave which we feel is a hazard. The entrance on Elsmere is being moved as far away from the corner of Delaware as possible but we have elevation issues and we got it as far from Delaware as possible. Yes we are adding traffic and there is already traffic and the site already has 186 spots on the site. That is pretty much about it. Does anyone have any questions?

Chairman Coffey, to summarize, there are 7 requests for variance with the loading not being an issue anymore.

Mr. Lynch, that is correct.

Chairman Coffey, without that we now have the number of spaces, parking space size and setbacks the required green space and landscape issues. You address the side yard setback section 128-100 schedule.

Mr. Lynch, yes Dan that is the property line that goes right through the building.

Chairman Coffey, you have partially addressed this but it seems that this is the driving factor for these variances, is the size of the building of 20,000 sf.

Mr. Lynch, that would be 23,700 square feet per floor with a total of 47,400 sf.

Chairman Coffey, it appears that the size of the building is the driving factor for the variances. The size of the building is forcing the applicant to have less and smaller spaces. Can you address the reason, which you had mentioned earlier that the economic viability was the reason for the size of the building?

Mr. Lynch, Absolutely. For example we have a 23,700 square foot footprint proposed that we are proposing and the existing is 25,000 square foot for the existing 2 structures so the proposed footprint will be smaller.

Chairman Coffey, Is the current pre-existing nonconforming?

Mr. Platel, I have not figured that out.

Mr. Coffey, you are reducing it from 25,000 to 23,700?

Mr. Lynch, Correct.

Mr. Platel. That is building area; we are increasing the actual space from 26,000 square feet to 48,000 square feet of space.

Mr. Lynch, Absolutely, we are talking footprint for coverage to start with. What we are doing is taking the existing users and consolidating them into one structure. If we leave it at 25,000 square foot of space it does not work, it would not be economically viable. What happens is when you do a project and Mr. Burke is the ground tenant and will be paying rent with an option to buy but the reality is that the economics drive the project because the building has to give sufficient income to cover the debt. So yes, the building size drives all of the parking requirements, green space and all of the variances for this project. But in order to make it viable this is the minimum size we can live with. That is why we went to a second floor and have proposed this building and we are not in a position to reduce the size or it will not work economically. Say yes Dan, we are creating a hardship I suppose on the face of it but in an area variance situation the self created hardship is a factor but it's not a bar to be grant. Whether or not it is self created becomes an issue when you have a site that the corner piece now has long been vacant and from our view point is economically obsolete. The medical office is occupied but it is a building that sooner rather than later from our perspective is soon going to become obsolete according to Mr. Burke. When you have an extremely important corner like this with a medical and retail uses on the site and one structure is long unused and being vandalized, it is not a good thing to have a vacant building and it is in our perspective economically obsolete. Economic obsolescence is actual an exception to the self created hardship bar for a use variance and would be a weighted factor for the area variance situation. One criteria for an area variance is does the variance create an undesirable change to the neighborhood. We feel that the uses will be the same that are and have been there and fully comports to the historical character of the neighborhood and they are a principally permitted use in the zone.

Chairman Coffey, Is not the second part of that the will there be a detriment to nearby properties with the granting of the area variance. Also did you speak to the school across the street in regards to this?

Mr. Lynch, We see no absolutely no detriment to the school and in fact we from a traffic safety issue. With the kids come down the sidewalk where there is unbridled access along there and we will be removing that access. As far as detrimental to the adjoin properties we have commercial uses all around the site. We do not believe that modernizing this site would be detrimental to the neighborhood. The next factor is in regards to having another feasible method to achieve a reasonable use of the property. Is there another way to do this without asking for the variances? We do not know of any ways to do this because this is the size of the structure we need to make it work. We have tried to balance this project doing the best we could to meet the all of the code requirements but at the end of the day we need these variances. But I go back to the existing conditions and we have 4% green space on the site with obsolete buildings, unfettered access and the likes. In our view point there is no other feasible way to restore the site into an economically viable site.

Mr. DeCancio, You say this is the smallest building you can do? Is this based on the amount of office space, can you make the pharmacy smaller?

Mr. Lynch, we cannot make the pharmacy smaller.

Mr. DeCancio, Is it a combination of both.

Mr. Lynch, This is Toms 4 Wallgreens project. This is the Wallgreens prototype, 14,550 square feet and we cannot change that.

Tom Burke, I would like to build on what Mr. Lynch as said. It is my contention that we have a vacant derelict blighted site and we are going to do is wholly compatible to the neighborhood and to the community. I live here and won't build something that won't work. I hear question about the number of spaces there are and how big is the building and I think we are going in the wrong direction. We have an almost 3 acre site with 186 spaces now. If you look at where the medical building is way back here, nobody parks up there and they do not park up here and use those spaces. So to say we have x square feet and x amount of spaces and now you say you need to double the amount of spaces it is kind of a false analysis, it's flawed. This is because the doctors do not use those spaces they use 35 to 40 of them, and I know this because I have



been counting them for 2 years. These spaces do not get used, nobody uses them. As far as CVS half of those spaces are in the back and never get used. I have been near killed half a dozen times at the corner here so let's call it what it is, it's a mess. We are proposing a contemporary interpretation, a modern building; it will take the current uses and in a safe and efficient manner allow us to adaptively reuse this property. I would not build it or get the financing and no tenants would come to it if did not have adequate parking. The building size is part of the equation, part of the consideration in the design of the project but it does not drive it. If it did not fit it would not work and I would not do it. So we have more than adequate parking which I need to make the project work. If it did not work I would not be able to get tenants or financing. As Peter said the relocation of the Elsmere entrance and the closing of the Delaware curb cut and the increase of the green space from 4% to over 20% are all enhancements to the property and benefits to the town and I think it is a gorgeous building.

Mr. DeCancio. Do you have any compelling statistics that say there will be enough or do you just feel that it is enough parking?

Mr. Burke, It is based on my experience.

Mr. Lynch, Tom has been developing sites since 1982 in dealing with retail sites. Multiple Duncan Donuts the Starbucks at Wolf and Shaker Rd. and the Wallgreens as I indicated so he has experience with retail sites. The medical site we have been monitoring for 2 years and it has been using on average 35 to 40 spaces a day.

Mr. Burke, and that includes the 21 spaces that the doctors use in the back.

Mr. Lynch, So the reality here is that we have an ordinance requirement that gives us a number but then we have the design guidelines that tell us to have the minimum that are actually needed which works for us because we cannot achieve parking compliance and the number of spaces. If we were to provide either it be 219 my number or Marks 227, the only way we can do it is to eliminate green space or reduce the size of the building. As I indicated were not going to reduce green space, I am sure you do not want less green space and we are not going to reduce the size of the building because that is what makes the project work.

Mr. Burke, You know when you talk about the size of the parking space the 18', that has been the standard in every community I have done business in since the early 80's. When cars had tail fins and they were 20 feet long you needed a space. Nobody has a 20' space anymore. Bethlehem is the only community that has a 20' space anymore. All of the other communities

have changes to the 18' length for the standard length. We are the only community that has this antiquated notion in our ordinance that it should be 20' long.

Mr. Platel, Do they have different parking requirements. I do know that Colonie and Guilderland do have requirements that allow for smaller spaces but require more parking spaces for commercial space.

Mr. Burke, Depending on the use.

Mr. Platel, Their ordinance may have different parking space size requirements but they have more stringent number of parking spaces requirements.

Mr. Burke, I take issue with that because cities like Albany, Saratoga, Clifton Park and Rotterdam.....

Mr. Platel, I looked at 2, Colonie and Guilderland.

Mr. Burke, Have similar requirements in regards to the spaces but everyone has gone to the 18' length and have adopted that.

Mr. Lynch, as a practical matter let me tell you what we tried to achieve. When we first had the project designed we went to the Development Committee meeting and we were trying to address the issue that you guys do not have any interior parking lot green space and we achieved that by reducing the size and put in a 4' break. So instead of having a sea of asphalt, so by reducing the size to 18' we were able to break up the spaces by having those green islands if you will breaking it up. So the idea of going to from the 20 to the 18 had a purpose and that was to get some green space in the parking lot. These islands also give some definition in an appearance point of view so we were able to accomplish a green space impact a positive impact by reducing the size of the spaces. Other than that we believe that this project does not have any adverse impact on the adjoining properties. It is commercial in nature, it is a major improvement to the site and in long term it works. It provides a tax base from the property. The school district will be in the black and it will not have a negative impact on the schools which is a planning issue whether or not a development burdens the schools. As you know this Town has a moratorium on residential development for that very reason and economic development of a commercial nature is consistent with the overall plan. We know we have some suburban office parks that are being proposed but this is more of a centrally base commercial use having a medical office use and pharmacy use that have historically been there

and they work. One of the things at the Development Committee meeting that we were advised was that there are some plans in place to take this corridor here and to change the zone class to a more restrictive zone to a more urbanized view of the site. We are all for planning, that is fine but the reality is today that is a plan but that is not what the zoning ordinance calls for. And we are asking you that when you are considering the variances that this plan may or may not be developed, it may be in 6 months or 3 years from now we do not know. The current situation is that this current zoning fits this project like a glove. As Tom indicated we cannot over emphasize the importance of the economy in this project that we are not trying to be hardnosed and say that it is this building or else. But the truth of the matter is that if we do not get that generated square footage in the building we cannot get the financing, we are not going to be able to build the project. We are not saying that lightly and yes the parking lot as an additional component is critical to the operations of the building but we cannot reduce the building size. So when exercising your discretion here on the variance issue I know on balance you have the ordinance a lot of people say that this is what the ordinance says and that is what you should do. The variance relief is your discretion, it is your call, that is why this tool is in the ordinances that in appropriate case and as we think in here especially where you are implementing the same uses that have been there historically we think that this project works, it is betterment to the site and community.

Mr. Micelli, What will the hours of operation be?

Mr. Burke, I believe 24 hours for the pharmacy and the medical office would keep regular medical hours.

Mr. Micelli, like it is now to about 9:00 at night?

Mr. Burke, That would be there call but I do not believe it will be 24 hours.

Mr. Umina, Will the current doctors be part of this plan?

Mr. Lynch, They may or may not they are not the driving force of this project, but they are potential tenants.

Mr. DeCancio, Will this increase the number of tenants, doctor's offices in what the old building currently has?

Mr. Burke, Yes.

Mr. DeCancio, Will there be more doctor's offices coming in?

Mr. Lynch, We are proposing medical office use and we have more square footage so it will have more offices and we do not know whether it will be one or multiple tenants. The existing doctors are possible tenants but not part of the project at this point.

Mr. DeCancio, I have one last question. You took this picture of the parking lot at CVS, their entrance, where would the entrance be?

Mr. Lynch, It would be more like about here so that they are not coming out at each other and you also have the median here separating the two.

Mr. Watson. Have any of the representatives received any feedback from the neighbors in a positive or negative light.

Mr. Burke. I have spoken to a couple of people who are in favor of it.

Mr. Watson, Residential or commercial?

Mr. Burke, Both.

Mr. Lynch, (pointing out the location of the entrance on Elsmere Ave to the Board) Excuse me this location here is where the cut will be for the entrance, not directly but offset and this is the median, the painted median that already exists.

Mr. Micelli, Mr. Burke, is there a site we could visit?

Mr. Burke, Hackett and Holland, but that is a typical Wallgreens design, in this instance the process has been going on for 2 years. We have solicited from the Town input in design, building size, location and landscaping and all of those comments have been incorporated in to the design you see today. We advised Wallgreens that their building would not be acceptable in town and would have to be a more traditional design and not their standard design.

Mr. Lynch, if you look at the one on Holland or in Clifton Park they are the stand alone with the typical green awnings.

Chairman Coffey, are there any like what you are proposing?

Mr. Burke, No

Chairman Coffey, so there are not any prototypes in the area that we can to look at?

Mr. Burke, No Sir, we do not. Again there is no issue with parking because if you take the existing doctors office and they use 35 to 50 space and you double it, now you are not up to 80.

Mr. Lynch, I do not think I made this point clear enough but the mix of retail and medical office I think absorbs the lack of parking under the ordinance. Like on Saturday and Sunday when the peak of the retail is going the doctor's offices are closed for the most part. So we think on balance that they offset each other on the parking mandate.

Luke Mullen, In reference to the parking in all the years that I owned the store in the back of the store there is parking for about 10 or 15 cars 3 cars are there. In the front from Delaware Ave towards the doctor's office that lot it has never ever been filled in all the years I have been here.

Chairman Coffey, but are the tenants going to change this al with the new building. Is it going to be the same tenant with the same usage?

Mr. Burke, same type of use.

Chairman Coffey, But is it going to be the same tenant?

Mr. Burke, no, not necessarily.

Mr. Coffey, so we can't extrapolate the current situation because we could have a different tenant or additional tenants.

Mr. Burke, No, Doctor X or Doctor Y, it is medical office space and it is irrelevant.

Mr. DeCancio, but going back to my question before, I asked you directly are you increasing the number of doctors offices that will be on the site?

Mr. Lynch, Yes.

Mr. DeCancio, by doing so the need for need for additional parking may increase potentially also?

Mr. Burke, Yes, But it does not mean that you need more spaces than you currently have because you have more than you could possibly use and most of them are too far away from the building for anyone to think about using them and as Luke said there behind the building. So the question is how many usable spaces do we currently have.

Mr. Micelli. Behind the building we could use that because the old CVS had spaces and it was always empty.

Mr. Burke, But nobody used them.

Mr. Micelli, they were empty.

Mr. Mullen, they were always empty.

Mr. Tucker, The one thing about for a pharmacy use is that they are a lower parking generator than a typical retail use. Especially now with pharmacies being designed with a drive thru so I think a lot of them instead of parking 4 per thousand for a grocery store where people spend half an hour there a pharmacy is typically a quick drop in get 1 or 2 things or use the drive thru so I think parking at 4 per thousand is probably a little high.

Mr. DeCancio, so do you have some statistics to back that up.

Mr. Tucker, I can try to find some, sure.

Mr. DeCancio, that would be fantastic.

Mr. Micelli. So Mr. Burke when you come off Elsmere Ave and hang that right in and go down alongside of the building are you still going to get access to the back of the building to park or is that going to be all parking.

Mr. Lynch, if you come in and go this way then you would have to go all the way back around the building again.

Mr. Micelli, yes that's right.

Mr. Lynch, if you go around here you will be able to go all the way around.

Mr. Burke, yes that is the idea is to have that

Mr. Micelli, now you have the berm and the trees.

Mr. Burke. You got it.

Chairman Coffey, Is there a traffic light at Booth?

Mr. Lynch, No but there is one at Delaware and Elsmere. We all know that this intersection is very heavily signaled.

Chairman Coffey, now during your presentation you referred to the design guidelines.

Mr. Lynch, yes I did, the Town's design guidelines.

Mr. Lynch, if you go to page 5 of my narrative that I submitted as part of the application there are 22 design guidelines in this district that we talk about. We went through each one and one of the things that I thought was compelling is the setback where it said basically that the setback should result in an overall design that compliments the existing character of the streetscape. This setback of the building here is completely compatible with the setback of the CVS Pharmacy

Mr. Watson, The one that I am interested in is number 16 in the guidelines, the minimum necessary parking spots.

Mr. Lynch. Right that is where I got that from. What we try to do is not just look at the mandates but also the guidelines. Another thing about the building under number 10 the building façade should not have any ribbon or continuous glass striping no blank windowless façade so what we tried to do was come up with a design that meets these features. I hope that answered your questions.

Mr. Watson, Yes, Thank You

Chairman Coffey, Peter, let's just go back to the setback issue at the rear. Basically on the lower left hand corner you have a 2.5'. Currently it was the railroad and it will hopefully become a rail trail and past that is the American Legion?

Mr. Lynch, Yes. The legion is on the other side of the rail trail.

There will also be an additional benefit to the Town in the granting of a 30' easement at the rear of the property if necessary for underground utilities.

Mr. DeCancio, along the rail line?

Mr. Lynch, yes that was one of the suggestions at the DPC meeting from someone with the Public Works Department and we said fine. As I indicated before you have a 15' setback requirement where if you had a house or some directly impacted property I think it would be an issue. But you have a 2.5' setback to the property line and then you have the rail trail and then an American Legion post I do not feel that being 2.5' and not 15' in this context makes any real impact of any significance.

Chairman Coffey, Even if the rail trail goes through and is being used the parking spaces won't be too close?

Mr. Lynch, Not to any degree where it will be an impact.

Mr. Micelli, they would be the same as they were before. The only thing you are going to have is a berm with trees and landscaping. I remember the back of CVS and that is where the parking would be.

Mr. DeCancio, where would the trash receptacles be located?

Mr. Tucker, as I mentioned before right along here is the loading area at the back of the Pharmacy and Medical Offices. The receptacles will be located here and they will be enclosed by a fence or stone enclosure with access for the pharmacy and medical offices.

Chairman Coffey, do I have any other questions from the board? Do I have any questions from the audience for the applicant?



Susan Blank, I have one question. I live on Ellsworth Ave and currently how it stands is many people do not want to wait especially during rush hour to make the light so they come down 45 mile an hour down my road and cut through the back to avoid the traffic devise. It happens all the time. Looking at the plan it looks like you are remedying that problem right, you are closing that entrance off. Is that right so people will not be able to get back there in order to avoid the traffic light.

Mr. Lynch, I think what you are talking about is the back of the site where you come down Booth Rd and there road curves over this way. Right now there is access back here.

Mrs. Blank, people come down and go around the back of the building and exit out onto Elsmere Ave and avoid the light. This has been a problem for years. I have lived on Ellsworth for 12 years and it has been a problem even way back when it was A&P and Mullen's Pharmacy

Mr. Micelli, ok I think you lost me.

Mrs. Blank, you come down Booth past Price Greenleaf and take a left, that is Ellsworth. When traffic backs up, I understand when there is an accident there will be cars that are being detoured, people cut through here during rush hour because they are impatient and come down Ellsworth Ave which is a heavy pedestrian area, fast to cut through the back of the lot to get to Elsmere to avoid the light.

Mr. DeCancio, they still will be able to do that even with the change.

Chairman Coffey, Even with the new design they still can but it would be more difficult with the change.

Mr. Lynch, It is not open access down here.

Mr. DeCancio, No but you can make the next one.

Mr. Lynch, You could but I think right now you can go right in here from here.

Mrs. Blank, Yes and there are other issues that I will cover later and I just wanted to know if you were closing that access.

Mr. Lynch, Yes we are closing that access.

Mrs. Blank, That access looks about where it is currently across from Price Greenleaf and then put it down towards Delaware?

Mr. Watson, This is the one you are refereeing to, right?

Mr. Lynch, correct.

Mrs. Blank, Isn't a little bit higher than where Price Greenleaf is?

Mr. Lynch, I can't remember to tell you truth.

Chairman Coffey, anything else on that?

Mrs. Blank, I have other things but this was for questions.

John Smolinski, Orchard St. member of the planning board. I have a question in regards to the overall parking area. One of the other design guidelines is the screening of off street parking, screening to walkways and streets. I can't tell from the drawings if there is adequate space to provide screening around the parking area and if not that should be a consideration of this board in deciding if there is enough parking or not. If there is not enough then it would shrink the parking area even more.

Mr. Lynch, should I address that?

Chairman Coffey, as it relates to the request for a variance. Are you talking about screening the whole lot or a portion of it?

If the screening can't be accommodated in the space that is there then there then it is either another variance that will be needed or there will be less parking if those perimeter areas have to be wider to accommodate the screening.

Mr. Lynch, what we do have here is a green space perimeter, which Mike if you can address the adequacy of that for screening because we believe it is.

Mike Tucker, Absolutely especially along Booth it is at least 10' wide and it necks down in the 3 spots we talked about.

Mr. DeCancio, Currently there is nothing there.

Mike Tucker, Correct, there is sufficient room except for the spot we here it is 2.5' and we can plant on either side of that. It won't be a continuous screen but it will be there.

Mr. Lynch, when I was talking about balancing this, one of the things we really wanted to achieve was appropriate green space around the perimeter to make this site visually pleasing and to also screen the parking areas and we think we have it.

Chairman Coffey, Does that address it John. It may become a planning issue in the future but in terms of the current request as existing, you are saying that if the screening is inadequate it will affect the parking even more?

John Smolinski, right, but if you are talking about 10 feet that sounds adequate.

Chairman Coffey, Any other questions for the applicant?

Mr. Micelli, Just one more Question. I mean all of this landscaping will be in front of the planning board and we are just concerned about the setbacks

Mr. DeCancio, should the planning board decide that they need more buffer space and the spaces are reduced would they have to come back to us?

Mr. Platel, it would have to.

Mr. DeCancio, so we are approving this variance, correct?

Chairman Coffey, we would be approving this for the number of spaces that they are shy with 183 spaces proposed. If anything else affects the number that they are shy then they would have to come back.

Chairman Coffey, are there any other questions for the applicant.

Dr. Joe Manzi, I have property at 261 Delaware. Would like to see it developed because it is an eye sore. How big is the existing doctor's office?

Mr. Lynch, 15000 square feet.

Mr. Manzi, there are 4 doctors in there right now and you are going to increase the doctors square footage to what?

Mr. Lynch, about 32,000 square feet.

Dr. Manzi, I am just making a point that you will have many more than 4 doctors in that building and I know what it is like not to have enough parking from where I use to practice. I think you are going to take up many more parking spaces. Also left hand turns out of Booth and also onto Elsmere are going to be tough. When the Board wisely approved the exit for CVS they made it so you could only take a right turn out and right turn in on Delaware. It is tough and I know because people turn right out onto Delaware and then turn into my lot going around my building so they can go back into Delmar. I know what it is like to turn left out of Booth and it is not easy as well as taking a left onto Elsmere Ave from where this proposed ingress and egress is located. You will also have conflicting traffic out of the CVS across the way. These are thoughts and I would like to see the property developed since it is an eyesore and getting worse.

Chairman Coffey, your concerns about traffic are noted and may not be pertinent to the specific variances they are seeking relief. You did mention the parking so do you have any further comments about the variance request that were made.

Dr. Manzi, I am not an engineer and have not given it much thought and I am seeing this for the first time. I have gone to Price Greenleaf and Lawanda's and know what it is like to take a turn out of Booth and the traffic is heavy in both directions and do not know if any thought has been given a lot of thought as to whether a caution light or stop light should be there. I think the entrance and exits should be given more thought.

Mr. Micelli. That would be DOT. They would have to come out and review that.

Mr. Lynch, you know if I am in this project and want to go back onto Delaware and go left, I would exit out of the Elsmere exit go to the light and turn left onto Delaware.

Susan Blank, In addition to being a resident I am also an employee of the Elsmere School. The children do not come up Elsmere to Delaware they actually come through Blanchard post and come down Booth Road, it is a problem. It is a problem for those children and I think that you

need a sidewalk for those children and there is not one shown. With the doctor's office being there and with the additional traffic and not to be pick on older drivers but they are not as alert of a driver nor are the younger children. I see near misses constantly with people pulling out of there and Price Greenleaf and the one further down also. I think you should rethink that exit and at price Greenleaf with the children and no sidewalk and I am sorry but I really think you should consider a sidewalk there on Booth.

Chairman Coffey, there is there a crossing guard there?

Susan Blank, yes, but they plow the crossing guards in during the winter and they have a problem getting there to help the kids get across the road. It would be neighborly if you allow the crossing guards to park in the lot. These people risk their lives daily to get these kids across the road to school. In short I think that you should consider putting in the sidewalk and also putting in one point of entry instead of 2 on Booth Road. I know that the only way to get onto Delaware from Booth is to be an aggressive driver, pick your point and you have to take it.

Chairman Coffey, again, I appreciate the comments yet we are here tonight to address the variances that have been applied for. If the variances are granted these concerns would be addressed by the Planning Board

Susan Blank, they would address the side walk, they have nothing to do with the sidewalks?

Chairman Coffey, they would address the sidewalks and traffic. We are here to address the issues that we talked about earlier. The applicant may address this now but that would be done by the planning board. Are any questions for the applicant at this time?

Susan Jacobsen, I think it is a mistake to characterize the building use as an upgrade to what is there. The key to me is the retail space, the 35 spaces that are currently used in the combined doctors and pharmacy because the little Wallgreens is going to be a lot lager and active participants in the pharmacy wars that are in the region. This is not a complaint about the building and I think the parking will work but is a mistake to state that the pharmacy will see the same activity that the current pharmacy sees.

Mr. Lynch, I was referring to the old CVS on the corner not the current one in the doctor's office.

Susan Jacobsen, you are right you did. When we were discussing the current combination doctor and pharmacy building and the use of the small number of parking spaces there, this will change. The existing pharmacy cannot really be considered retail they just fill prescriptions there on your way out. This pharmacy will have more exterior activity with the drive thru. I think it is a great idea and that the parking is adequate.

Chairman Coffey, Anyone else want to speak in favor? Anyone in opposition? Any more questions from the Board? If there are no other questions or comment I believe we should reserve on this one and do we want to have the Chair close the meeting?

Mike Moore, Well I would like to suggest Mr. Chairman. I threw out a suggestion to you and the board member and also Mr. Lynch mentioned that there are plans that the Town is developing, the Delaware Ave Corridor I think we should reach out to the DEDP and ask if they wish to comment on this project. It would be my suggestion. It makes sense to hear from them.

Mr. DeCancio, ACPB?

Mr., Moore, No, the Town Department, Albany County Planning is required.

Mr. Umina, Do you want the comments in a form of testimony or a statement or what type of form.

Mr. Moore, in whatever form just so it is part of the record, oral or written.

Mr. Burke, Haven't they been consulted already at the DPC meeting 3 months ago. And in January and there was public notice and is it not the function of this board to make a determination. We have had ongoing discussions with the Town and all of these people at the development meeting in November.

Chairman Coffey, The Chair has the right to ask for additional input if he feels there are other issues that need to be taken into account. I agree with Mike that we should ask the department for some type of written memo and give them the chance to respond if they want.

Mr. Burke, I thought that they would have done that already. You know members of the Planning Board are here tonight and the Town Supervisor was here. They have all attended the

development meeting where we had 40 people in a room 3 months ago. We incorporated suggestions that were made at that time into the design and you know time is money for me.

Chairman Coffey, This is a public hearing and you have had your hearing and the Chair feels that it would be beneficial to ask the department if they so choose to comment on it since they are not here. I agree it would have been more efficient to have them here tonight but they are not so I would ask them for comment and give the applicant a chance to respond. Other than that the meeting is considered closed and we will come back to discuss this at our next scheduled meeting.

Ken Umina, So we would have the comments before the next meeting and wouldn't be discussing this before that meeting anyway so there are not going to be any delays.

Mr. Lynch. We would ask if the board would consider voting on it at the next meeting.

Mr. Micelli, the next meeting would be the 17<sup>th</sup>.

Mr. Moore, Mark, Did the school district get notified of this hearing?

Susan Blank, Yes they did that is why I am here.

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Chairman Coffey, the second item is to discuss the South Albany Airport corporation discussion. Are there any comments from the members?

Mr. Micelli, we had concerns from one of the neighbors in regards to the location of the hangar.

Chairman Coffey, yes Mr. Curley asked to have the setback at 40' rather than 25'. The applicant did address the issue in regards to FAA regulations as well as the hangar being located further away from the existing hangar that will be demolished. Also felt that the additional 15' would not make a noticeable difference and I would like to hear from the others.

Mr. Micelli, I wanted to address the concerns of the neighbor and feel that they have been addressed and also feel that the new structure will be an improvement over the existing structure and would vote in favor.

Chairman Coffey, a note for the record that the ACPB sent in their decision having no issues deferred the project to local consideration.

Mr. Umina, I am in favor of this project after spending some time at the airport and feel that this will be an improvement to the site and would also be in favor.

Chairman Coffey, in terms of the statutory factors do we have any thoughts on that.

Mr. DeCancio, The fact is that it is not changing the character and the new structure will be further away from the property line. I feel that this should be approved.

Chairman Coffey, Do we have a motion?

Mr. Watson, I'll move it.

Chairman Coffey, are there any conditions. On a motion by Mr. Watson, do we have a second? On a second by Mr. DeCancio with all in favor the variance is granted. Counsel would you draw up a resolution for our consideration

Chairman Coffey, Do we have a motion to approve the minutes of February 3, 2010 on a motion by Mr. Micelli and second by Mr. Watson, with all in favor. 5-0 in favor

Minutes of February 17 were approved on a motion from Mr. Micelli and seconded by Mr. Watson with all in favor. 5-0 in favor

Chairman Coffey, do we have a motion to adjourn? On a motion by Mr. Micelli and second by Mr. Umina with all in favor the meeting was adjourned at 8:42 Lennie & Kenny  
Respectfully submitted, MJP