

# TOWN OF FALLSBURG ZONING BOARD MEETING

October 21, 2021

Steve Burke, Chairman, Ellyane Hutchinson, Mike Bensimone, Neil Sapolsky, Thomas Little, Steve Altman, Rabbi Zierler Board Members, George Sarvis, Marisol Torrens, Code Enforcement, Paula E. Kay, Deputy Town Attorney, Melissa Melko.

Steve Burke welcomes you  
August minutes approved

## NEW BUSINESS:

**1 JOHN MAKOVIC MULTI-FAMILY– SBL# 35-6-1.5 – Requests a use variance to construct a 4 family (multi-family) apartment building. Zone: MX. Acres: 22,950 SF.. Location: Waldorf Ave. , Hurleyville. Cross Roads: Co. Rd. 104.**

Steve Burke: First item on the agenda and the only item on the agenda, violations

George Sarvis: No violations

Paula Kay: Can the hours pick that up as when we started there?

Marisol Torrens: Yes we started talking

Glenn Smith: From John Makovic here, for this application tonight, what I just passed out were the plans, the same ones we got here. And I will briefly explain this is a half an acre, 0.25 parcel vacant, on the corner of Main Street in Hurleyville and Waldorf Ave. What is proposed on this drawing here is a four unit apartment house it's two stories, it's 64 feet by 32 feet in size, with its own parking right next to it. Because it is an apartment house, it is considered a multi-family building and in the MX Zone in Hurleyville, in the Town of Fallsburg, which MX Zone's don't allow multi-family homes they do permit Townhouses. On the drawings that I passed out that you saw, Broadway 17 drawing, also that's our way, we went to the Town Planning Board in July, we had a Public Hearing in July. That drawing shows 6 Etched Townhouses on this same parcel, obviously, much larger parking area, which is totally conforming in the MX Zone of the Town, it being a Townhouse, a multi-family like I said is not in the MX Zone. We have heard comments from the neighbors, and one of the main issues seemed to be Waldorf Avenue, it's about 13 feet wide when you come in from Main Street the next half about 12 feet wide further back and at the very end it's down to about 11 feet wide. The neighbors had some valid issues with not even the additional traffic, current traffic on Waldorf Avenue is an issue because the street is only 12 feet wide. The Planning Board, I think we could probably get the Townhouse

project approved, but they kinda have insinuated that they wanted Mr. Makovic to basically pay for the Town for widening the road to bring it up to Town road standards. We asked the Town Engineer, Keystone, to look into the road, to widen it this and that, but we never heard back from the Town Engineer. I did do an estimate, I think I attached it to the application, for basically widening the first 250 feet of the roadway from Main street along the whole frontage here, excavating and base gravel, asphalt and top coarse, around 45 to 50,000 dollars, which is an expense that which probably wouldn't make the Townhouse phisable. So after that Planning Board meeting, we went back to this original concept. Just a rough comparison of the 6 unit Townhouse performing project, which has about 3,500 square feet of building area, and 7,000 feet of paved parking and driveway. The 4 unit, non performing plan we will call it, is about 2,000 square feet of building area, is almost half of what the Townhouse concept is, and about 3,400 square feet of impervious paved area, so again, half of the pavement on this concept then the Townhouse concept. So there's a significant, in my opinion, difference in disturbance and effect on the property, on something small like this, which is 4 units compared to something large like that, which is 6 units. So we are in the Town water and sewage district. The property right next to this property is in the HR zone, which does permit multi-family. So if we were one lot over, multi-family is permitted in that whole section there, but we are not, we are one section over. Other than that, that was the main changes that came up, I think we did submit, John prepared a while ago a financial summary of various options, 3 unit Multi-family, 4 unit Multi-family, a store with residential units above it, a garage with an office, a stak house that you did, and basically it all kind of showed except for this type of options here, the 4 unit multi-family the other ones are money losers on a monthly basis, so we are going to say that to the Board, not sure if you had a chance to look at it or not. But again, the cost of rebuilding Waldorf to get it up to at least 18 to 20 feet wide at 40-50,000 dollars is kind of an expense that really wouldn't pay to do the 6 unit Townhouses there. That also leads me, the 6 unit Townhouse option, the driveway is on the very end of the property here, so we would definitely be using the first 250-300 feet of Waldorf Avenue, this current 4 unit option that we showed the drive takes enters about 50 to 60 feet of Main Street, so actually the traffic flow will be using about the first 50 feet of Waldorf and the rest we won't touch, because I'm always concerned about people in the street or kids playing in the street, and this and that will be nowhere near that distracting,

Paula Kay: I don't know if you saw the County 239 just came out a little while ago

Glenn Smith: No, I didn't see that

Paula Kay: Ok, so wealth of determination, but Feda wrote, as we wrote in our previous letter for variances on this project, the Town zoning along with municipal and local investments, supports growth of the Hamlet into a traditional walkable downtown. The sketch laid submitted with the previous application

Glenn Smith: Those Townhouse

Paula Kay: Shows parking in front of the building which conflicts with that vision. Should development of that site move forward, it should include construction of a sidewalk to contribute to the Hamlets pedestrian friendly futures

Glenn Smith: The original, original Townhouse concept, we had parking in front of the units, the Planning Board asked, Helen brought up another Townhouse regulation that she found that parking has to be behind the building, that's why this concept here, has parking behind, we actually moved the units up right close to Waldorf, their sidewalk which requires on townhouses for the Zoning, and put the parking behind it.

Paula Kay: So maybe the County, not see that version?

Glenn Smith: The way it sounds, they didn't. Because she referred to it as the original, original plan. She had referred to the first plan that we submitted which we had revised based on what Helen Budrock comments, and the County might never have seen that, although this concept did have a sidewalk, which she is asking about.

Steve Burke: So before and what you are looking to do, what would happen in Waldorf

Glenn Smith: Nothing

Steve Burke: Because it's gonna cost a lot less money to do that, as far as this

Glenn Smith: As far as reconstruction, that's why we are showing the entrance right close to Main Street

Steve Burke: If the neighbors are going to complain about the size of the road, would you seem to maybe to do something for the driveway, that first 50 feet in

John Makovic: This comes into the property a little bit, I mean we graze it off that road, we're trying not to. The next road over, Waldorf, sorry, Cunes is the next road over, went from a dead end road that had no activity, until whatever it was, 6 or 7 years ago, when we first bought a few of the parcels there. Now we have those homes that have been remodeled the Center now owns, so the Center is running a workshop out of there. I have my shop across the road where we have traffic going through. Now there's a school there and the school comes in and out of that road, we have the Synagogue the parks and the holiday's and so on, we all get by, we have the PRASAD unit uses that, the new bicycle shop that's opened, Perry's on the other side, we get traffic from there and we all get by without any issues.

Steve Burke: I've been by there all summer long, obviously the busiest time and I never saw, we have school buses now, that's an issue

John Makovic: I understand,

Steve Altman: Let me ask you a question, I'm not crazy about a parking lot right on Main street, so if the building that you're proposing looks like it's 64 feet long. But the property is almost, I can't read it, is almost 94 feet

Glenn Smith: In length or in depth

Steve Altman: This way the building

(inaudible)

Neil Sapolsky: Swap the parking lot to the building

Glenn Smith: It will just put the parking lot further up Waldorf

Steve Altman: You have the building on Main street and will see it. The entrance to the building will be around to the front and it would look nice on Main Street

John Makovic: I'm not opposed to it

Glenn Smith: You're not talking about the entrance on Main Street, you're talking about the entrance on Waldorf

Steve Altman: Well I don't like the idea if you put it up there, I don't like the idea (inaudible) can we turn the building

Glenn Smith: If it will fit, you have 64 and you have roughly 90 feet, it would be very tight.

Rabbi Zierler: So then you get into the narrow part of Waldorf

Glenn Smith: Then the building on the Main Street side eventually could look nice,

Rabbi Zierler: I have a question, so the main issue with the original plan was that the entrance was so far into Waldorf, why not just reverse it and put the entrance at the beginning of Waldorf

Glenn Smith: That would be too close to Main Street. We really don't want to have an intersection that close, we're 50- 60 feet, that would be 20 feet. It's discouraged, I mean the DOT discourages anything

John Makovic: We showed them two options when we went, and this was the option that we were geared towards. But we did show two different options and we may have even shown three.

Glenn Smith: (Inaudible) is on Main Street, it inches out to Main Street, but that's a terrible site, looking to go left to Monticello you can't see 50 feet there, with the cars coming over the hill. As far as flipping the building or apartment I'm not sure.

John Makovic: I'm not sure

Glenn Smith: It can be done, it's just

Rabbi Zierler: But doesn't that create a problem then, you're further down Waldorf

Steve Burke: You do go further down

Glenn Smith: That's where Pine Estates close to Main Street, as close as we can

Neil Sapalosky: How long is that line between the building and Main

Glenn Smith: Between the building and Main now, on this road

Neil Sapalosky: Yeah, on that road, between the building and Main street,

Glenn Smith: You're probably 85 feet 90 feet

Neil Sapalosky: From the beginning of the parking lot, right there

Glenn Smith: From here to the road 35-40 feet

Rabbi Zierler: We're talking about basic apartments here aren't we

Glenn Smith: The picture on the left

Rabbi Zierler: But the property actually sets up from the road. But I see those windows, being just pound with rain

John Makovic: Yes, it upgrade, because the property goes upward from the road

Rabbi Zierler: And in the back it's going to be higher

Glenn Smith: Yes

Rabbi Zierler: You have something in the code about basement apartments

Glenn Smith: These are high enough above grade they wouldn't qualify as basement apartments,

John Makovic: Yeah, it wouldn't be a basement apartment

Glenn Smith: It would be a first floor,

Steve Burke: The entrances are in the back

(inaudible too many talking)

Glenn Smith: Upstairs two units will be at the side,

Steve Altman: A Ranch

Glenn Smith: Something like that

Steve Burke: And there's no issues with the windows David, (inaudible) apartment, there's no issue with that

Glenn Smith: This is a Planning Board thing in terms of these kind of apartments, but it's very much in the discussion stage, with the aftermath of the Hurricane

John Makovic: So the apartment wouldn't be below the road level. There it's showing where it is located on the property, there's such a grade difference from the road to where this unit will be developed

Steve Burke: You think

John Makovic: Yes going to the back, there is quite a bit

Glenn Smith: We've got a flooding drain going out to the Main street drainage, so it has to be high enough to get drainage out to it, so it is

John Makovic: Yes, there won't be sump pumps going out. If that becomes the case, we're just going to raise it.

Steve Burke: Are you guys done?

Glenn Smith: I think so, yes

Steve Burke: Anybody have any questions?

Mike Bensimon: Just a quick question, when these units are built, what is your target rent, or are you going with what the market rate is at that time,

John Makovic: I can't say market rate, because the market is insane right now so it's not affordable, so our market range we are looking to be is, so it doesn't become affordable. Our

market range we are looking to be is somewhere 1,100 to 1,250 range is what we are looking to make.

Mike Bensimon: How many square feet

John Makovic: 2 bedroom, what'd they come out 1,000 square feet per unit

Mike Bensimon: Small house

Glenn Smith: Both floors together, make it reasonable.

John Makovic: It's not cheap, but the expense of construction is up tremendously and in order to kind of see something here in return, we're hoping now that the cost maybe coming down, hopefully

(inaudible)

Glenn Smith: So on the numbers we tried to put what would be a fair value, we didn't really necessarily want to put numbers on what we are hoping to be

Mike Bensimon: Wouldn't the 6 duplexes intentionally give you a larger return

John Makovic: It would bring in more money monthly but not a larger return, it would be 6 tax bills and the cost of construction is a lot higher, especially with the cost of the road added into it.

Mike Bensimon: So why not scale down to the four that your looking to do, just in this configuration

John Makovic: Well, we may have done something on one of the other financials before Townhouses, I don't know if we have it in here or if we submitted the numbers. The numbers don't work.

Glenn Smith: There's two on these, I think they were submitted

John Makovic: We may have submitted it to the Planning Board

Glenn Smith: The Town has individual tax lots, the Town has tax lots with different owners, (inaudible) it's all in the configuration of the County tax lots

Michael Bensimon: I like the way this looks, and I like this project looks really promising, I'm just trying to get around the technical issues related to a use variance, which is a much higher threshold, I mean in a sense if we grant you this use variance it will definitely create a spot Zoning issue, not necessarily for you, because you are touching a HR property right behind you,

but it creates a spot zoning issue for the property next to you owned by the Center for Discovery, so now they are going to set all alone as an MX use, surround by properties that are HR, which is the definition of

Glenn Smith: Well, MX is across from Main street, which is, I mean everything here is MX, no HR's are over here

Paula Kay: We're not changing the Zoning, they are asking for a variance to allow Multi Family, where Multi Family is not allowed.

Michael Bensimon: But wouldn't it set at the land

Paula Kay: What spot Zoning is, say there's a bunch of properties and they are all zoned MX, and in the middle of them, there's properties sort of in a circle, in the middle, somebody has something that is MX and they want to make it R, you throw it in the middle and there's nothing that touches it, that's also the same zone, that would be spot zoning.

Michael Bensimon: But you create that issue for the property next store, for the Center for Discovery, they are only going to be touching HR

Paula Kay: Again, we are not changing the, this is the zoning now, we are not changing the zoning, what they are asking you to do, is allow this use within the MX zoning

Steve Burke: The spirit of the area is MX

Michael Bensimon: Well they are definitely not going to change, but they are going to set like an island, they are going to be MX

Paula Kay: They are MX, it is MX right now

Michael Bensimon: It is MX, but with this change, or this allow, or this use, all of the properties around this property are not going to be in effect HR in its actual use.

John Makovic: I'm sorry to interrupt, but directly across are multi family homes. This one here is a two family, which I own, over to the left, is another 3 to 4 family here, and going down the other way is the same thing, a 2 or 3 multifamily

Glenn Smith: But this is all MX zoned, so the Center for Discovery piece is surrounded by MX

Michael Bensimon: It's continuous to the properties across the street

John Makovic: On two sides, yeah

Michael Bensimon: Their all on one side, where is that coming



Glenn Smith: This is all MX on this side, this is all MX on this side.

Michael Bensimon: The other side is not MX, that's the last property

John Makovic: Right, this is MX, this is MX , this is MX, these are MX but they are being used as essentially as what we are asking for a variance here, to use the same as the neighbors

Steve Burke: So the neighborhood won't change, that's kind of what they say. Ok, anybody else have any questions? They have no violations or anything

George Sarvis: No

Steve Burke: So is anybody here like to speak, from the Public on behalf of whatever you would like to speak on behalf

Perry Gipps: I am a property opposite, and want to see that and the Town come alive, this is a very cool addition

Steve Burke: Ok, anybody else, ok, so we have some Zoom calls,

Marisol Torrens: Whoever wants to speak, raise their hands, I have Denise Sullivan

Denise Sullivan: Hi can you hear me, you know, when you buy a piece of property on speculation, and it's speculating, you know, you take your chances with that I don't believe Zoning should be changed to accommodate this, once again, this is a Dead End street with six single family homes, it's 13 feet wide. Today we had our second water main break within 12 months, so infrastructure is an issue, but at most another single family home would fit here, on that 1/2 acre, not 4 with 8 cars and more car parking for guests, it's not going to work with our kids walking to school down this street, getting picked up by a bus at the end of this street, it doesn't fit, and I know that's a Planning Board issues and not Zoning, but I don't believe that Zoning should be changed for his speculating. It doesn't fit, none of these projects with these multiply family homes fit here, come down and visit and you will see, it's just not going to fit

Steve Burke: Ok, thank you

Marisol Torrens: Ok, we have Donald Morton

Donald Morton: Hello, can you hear me, I do have to double down on some of the things that Denise has said, I can hear a lot better with this meeting and I can see some of the changes that were proposed with having a smaller complex, I think it was the same amount, but what was the total parking spots for the four unit apartment building

John Makovic: Ten spots

Donald Morton: Ten, so that's only two guest spots, so this is where I start to run into a little bit of an issue, for where you guys have already talked about how narrow the street is coming down, but if there was to be guests, where the guests were to park, say one person from each unit has a guest, I'm guessing it is going to be somewhere on Waldorf coming up that's the issue. The second issue I have, right now we can't have two cars exit Waldorf onto Main street and we can't come on at the same time, so you have to go into Town and turn around, we have a little bit of that issue already, I could see that heightening going forward with this, I can definitely see that as a problem, especially in the winter time, it's a one way street, all year round, but in the winter time, it really is a one way street. I ran into that issue a lot last year, and I don't see it getting any better with this proposal. I welcome the change of a house being down there. A neighbor is always nice, not trying to be a stickler for nothing just going on in that lot. Something in that lot would be better than what it is setting at right now, and like I said, a neighbor is welcome, it's just a lot more compatible to have a one person house with a few cars, because I think everyone that is on this street right now, we don't total the number of one lot. I think we are 7 cars all together right now.

Rabbi Zierler: Is that on the street parking on Waldorf?

Donald Morton: No it's not wide enough, we do have an issue right now, on the holidays, we kind of all have to commerce with each other and see who is going to have a certain amount of people over, and where it's going to be parked. I know when I have family come over to visit, they use the municipal parking down in Town and we shuttle them up, I'll come down and walk with my father to come up, just to relieve congestion on the street now, and that's us being very considerate with our neighbors which we all try to be here. Not saying that can't happen with some of the tenants that could be down here, for what's proposed. But I don't have a lot of faith in it to be honest. I can speak for the people that I live around right now. That's all, Thank you

Marisol Torrens: Ok we have Kathleen Sullivan

Kathleen Sullivan: Hi, my first point is, I don't see the comparison between Cunes road and Waldorf Avenue, there is absolutely no comparison at all. There are no homes on Cunes road at all, it's a totally different atmosphere, environment. I mean I agree with Donald, one house fine, but this project does not fit with Waldorf Avenue. With the atmosphere with the maintenance of the properties. And my other question is, the sidewalk, will that decrease the width of the road?

John Makovic: There's no sidewalk proposed at this time, but definitely not.

Kathleen Sullivan: Ok, so the road would still be 13 feet wide.

Glenn Smith: Yes

Kathleen Sullivan: So as Denise mentioned, we had our second water main break, we all had to move our cars down to the end of the road, because we couldn't get out, because the trucks

were actually parking in our driveways because there's no parking on Waldorf Avenue. This project just does not work here at all,

John Makovic: If the project was done, you could have parked on our property,

Kathleen Sullivan: Pardon me

John Makovic: If the project was done by now, you could have parked on our property

Kathleen Sullivan: Right, we would have taken your residents parking spaces, that's ridiculous. No, anyway that's all I have to say, Thank you

Steve Burke: Ok, Thank you, anybody else

Marisol Torrens: Shannon Porter - no

Rabbi Zierler: Paula, you can't give an easement for this kind of thing can you,

Paula Kay: An easement for what

Rabbi Zierler: To be on somebody else's, to park on someone else's parking lot

Paula Kay: He can

Rabbi Zierler: Even when they are claimed by other people?

Paula Kay: Could you do it, yes, it would impact their parking proposal, but they are not mentioning an easement, he just said they could park there. I don't think there's a way, Mr. Chairman

Steve Burke: Yes, anybody else

Paula Kay: The Public is done

Steve Burke: That's it, ok, so we will close the Public portion, Board comments

Neil Sapolsky: Can we get more parking spots, thinking about the holidays, Thanksgiving

Glenn Smith: We can

John Makovic: There's also, each unit will have 2 parking spots, and I can't say this for sure, I don't know, but it's not going to be a requirement for them to have one car to move in, they would be allowed up to two cars, and I don't know what they would do for guests, but the parking is within walking distance, the Municipal parking in Town. We are trying to kind of bring

a crowd into the Town, and they are really coming for the town, they've been on the Rail trail they've been on the sidewalks,

Neil Sapolsky: So you're just focused on next to

John Makovic: Yes, actually it's closer

Glenn Smith: On this side, of the Rail Trail

John Makovic: Oh I'm sorry, the Rail Trail and the parking is there with it, and it's within (inaudible)

Glenn Smith: We are selling enough parking according to Zoning, two spaces per unit plus a half a space per unit, should be more than enough for the 10 people involved.

Steve Burke: Somebody, anything

Mike Bensimon: I'm still trying to find the old rule in the partnership, there are certain uses that are just not approvable, but as far as a basic use of the allowable uses I think we do have options. Also I'm still hesitant to break that card out in a sense to the MX zone, I think you brought a use variance. It's a very high threshold and as much as I like the way that this looks, I can't go over that threshold.

John Makovic: Would there be some type of a difference, besides the technicality behind it, and the construction with the Townhomes, they would still be single family residents as this would be a four single family let's just say, in one building, the use would still essentially be the same just the cost of construction is a lot higher. And besides the cost of construction, the cost of maintenance would be high, and would also be separate Tax parcels. But it would still be the 6

Glenn Smith: It would be 16 spaces, more use, traffic

Mike Bensimon: No I understand, you are working in this very tight, I know you are very constricted there, but still, it's just me

Glenn Smith: I understand

Mike Bensimon: We have to work within the Zoning laws that's established, you know, we don't write them all, we just have to do what the law prohibits, and we are here to look at specific cases of hardship, when the Zoning is applied equally to all parcels in the Town, you know there's some situations where the parcel has something unique about it, had not been thought of when the Zoning went in by the ZBA exists, so taking in all of the established criteria, like the (inaudible papers, coughing) and as much as this project should go through, I'm trying to find all of the elements needed to back up that (inaudible Papers) I'm just not feeling it. As much as I would like to support this project, I'm just not personally seeing it.

Steve Burke: Just so you know, we gave everyone an option from the Public to speak,

Angela Rein: The Townhouse project, I think is more of a carveout, because Townhouse doesn't really fit what that neighborhood has. The way that this, duplex or whatever, looks like a single family home. So that setting in that spot, I think makes more sense, and we essentially, they are coming to the Board because going to the Planning Board the Townhouses are you know allowed to go forward, but this seems like a better option

Mike Bensimon: I agree, so this is why it is hard for me, because aesthetically it's a much better option than all of these Townhouses next to each other, but that's what is allowed in that zone, as past my

Angela Rein: Isn't that why we are here, because you saying that's something

Mike Bensimon: To talk about the aesthetics, what it should look like, I have an opinion on this and I feel that I like this, but I'm trying to find that initial entity, I'm trying to look within the Zoning law and the elements that we are supposed to consider looking at hardships, to allow applicants to go outside of the Zoning law, so as much as I like this project, I can't see you passing this threshold. I apologize, because I think this is a much better option aesthetically, I still don't think it passes that threshold.

Paula Kay: For the hardship even

Mike Bensimon: I don't

Steve Burke: You had something you wanted to say

Rabbi Zierler: When it comes to the taste and aesthetics it is all in personal choice and preference. There's a lot that's going into this small space and you also have to take into consideration, what you build will also attract a certain kind of resident and the issue of the stability of the resident or residency. A Townhouse to me, I think gives people much more of a foothold in an area. As opposed to something like this which looks very transitory to me, I see transients all over the place, I see small apartments. You say it looks like one house, it does look like one house, and yet there are going to be 4 families living here. A lot of wear and tear on the building, and if the Townhouse conforms to the Zoning. I know that you have a problem in terms of the cost issues, but in the long run, the market has stabilized, and you might be able to build this and recoup your investment in a handsome way. This issue is whether or not this is the time to do it, and whether or not we should be moving a zoning mountain, for something that actually has a solution down the road.

Steve Burke: That was good, Thank you. Any others

Neil Sapolsky: Would parking be permitted right now on Waldorf if you built this, parking is allowed on Waldorf

Glenn Smith: No, talking on Main Street

Neil Sapolsky: No, for guests, there's No Parking signs up there, they are not allowed to park on Waldorf

Glenn Smith: You can park on the road

(inaudible)

John Makovic: It's not that you can't, I mean you can park on the road

Neil Sapolsky: There's No Parking signs up, you're not allowed to?

John Makovic: It's a Town Road, you can't park on a Town Road,

Neil Sapolsky: I know it's on Main Street where other Multi dwelling homes are, and I think it fits in perfectly, but

Paula Kay: You want to go through the criteria and see

(inaudible)

Ellayne Hutchinson: I understand the parking and traffic issues, because it is a very narrow road, but I think the Townhouse option actually is not I prefer this option to the Townhouse option, and I think that if it means widening the road, then you widening the property because the Town couldn't do it anywhere else. That's all I have to say

Steve Burke: Steve

Steve Altman: I oppose it, I can't support it. Not only for Zoning and parking and the road, I don't know how many neighbors are on that street, but they spoke up, he has spoken positive, he has spoken negative, I just can't support this,

Steve Burke: Ok, so we will run down some of the criteria and the first one is, Cannot realize a reasonable return substantial as shown by competent by financial evidence, and we will start with you

Neil Sapolsky: Say that again

Paula Kay: The applicant cannot realize a reasonable return as shown by competent financial evidence, what that means is essentially is what he has done, you go through the other uses,

Steve Burke: So Yes, he cannot

Neil Sapolsky: Right

Steve Burke: All say no, next is alleged hardship is unique and does not apply to substantial portion of the district or the neighborhood

All say no

Steve Burke: Requested variance will not alter essential character of the neighborhood

Paula Kay: If granted

Steve Burke: If granted

All say no

Steve Burke: And last is, alleged hardship has not been self created.

All say no

Steve Burke: So with that, we will go to the Lead Agency all in favor, negative dec all in favor, ok we will have a motion to approve or deny. So I have two to deny, now we go through a motion to approve

Steve Altman: You already have a motion to deny it was passed

Steve Burke: It doesn't mean that it passed, because if nobody votes, it doesn't pass again

Paula Kay: The motion to deny was defeated

Steve Altman: It was, I thought there was one positive vote and it was all negative

Paula Kay: No

Mike Bensimon: You motioned for it, I second it,

Paula Kay: And that was it

Steve Burke: So do I have a motion to approve, so I have a second

Ellayne Hutchinson: second.

Steve Burke: Mike

Mike Bensimon: No

Steve Altman: No

Steve Burke: And I vote yes, so you have your variance