

**VILLAGE OF SPRING VALLEY  
ZONING BOARD OF APPEALS  
NOVEMBER 9, 2011**

A Regular Meeting of Spring Valley Zoning Board of Appeals was held in the Board Room of the Village Offices on Wednesday, November 9, 2011.

**PRESENT:** Pat Caldwell, Chairwoman

Members: Eli Solomon  
Martha Patrick  
Moshe Hopstein  
Asher Grossman

Asst. Village Attorney: Ed Katz  
Office Services Aide: Reine Lamarre  
Building Inspector: Walter Booker

*Chairwoman Caldwell called the meeting to order at 7:08 PM.*

**MINUTES OF OCTOBER 11, 2011**

On a motion by Mr. Hopstein and seconded by Ms. Patrick, the Board voted unanimously to approve the minutes of October 11, 2011.

**PUBLIC HEARING**

**CONTINUATION OF PUBLIC HEARING: Evangelical Christian Alliance Church of CMA/ Germain**

The Building Inspector, Mr. Booker, read the Particulars. This is a continuation of a public hearing for the Evangelical Christian Alliance Church of CMA/ Germain. The location is on the north side of West Furman Place, approximately 250' west of Route 45. The applicant seeks a variance for the demolition of an existing structure and the construction of a new church structure. The variances required are: Lot Area: 25, 000 square feet required, 17,936 proposed; Front Yard: 35 feet required, 13 feet provided; Side Yard: 20 feet required, 6 feet provided; Floor Area Ratio: 0.30 allowed, 0.67 proposed; Parking: 110 spaces required, 22 proposed; Size of Parking Spaces: 9 feet required, 8 feet provided; Sign Location: 25 feet setback from the property line required, 1 foot requested.

Mr. Katz added that last month the Board took note of the County Planning Department recommendations regarding parking and the large floor area variance requested. The Board suggested that Pastor Germain seek professional assistance with these problems. Anthony Celentano, engineer for the application, 31 Rosman Road, Thiells, appeared on

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behalf of the applicant and testified that the plan is to tear down the old Church and put in a new Church. It was positioned in the front part of the lot to maximize parking. The main issue with parking is that they offered 22 spaces. There are currently 100 worshippers, using those numbers only 25 spaces are required. The Church uses a van to get to the Church and about 35 worshippers drive. There is a municipality lot that is close to the Church and sufficient for the Church at this time.

Chairperson Caldwell asked how it is possible to have reduced number when previous testimony stated there are 436 members. Mr. Celentano answered that by fire code it can handle 436 members. Mr. Katz added that there is an assumption the congregation will grow or there would be no need to build a bigger Church. Mr. Celentano answered that the Church has a building and after worship, the congregants go down and get something to eat. They are not occupied at the same time, but congregants would eventually go down to the sanctuary. Chairwoman Caldwell asked if parking arrangements have been made with the Village to use the municipal parking. Pastor Germain indicated there is no parking arrangement but it is not in use on Sundays. He agreed to ask for use of the lot.

Douglas Schoonover, Jr., appeared on behalf of Spring Valley Hook & Ladder Co., 7 West Furman Place, located immediately adjacent to the property and discussed the major problem with parking. In an emergency response situation, they need to be able to get the members to the firehouse. There are three pieces of apparatus provided to them by the Village of Spring Valley. There is a sign in front of the company indicating no parking allowed besides fire officials, but during religious times, those spots are used despite numerous requests not to park there. The Chief approached the Reverend in reference to parking. Beckerle Lumber, located on the other side of the property, has gates they would not be able to get to in the case of an emergency. Church parishioners park in front of those gates when they have worship. Another issue is with the retaining wall and raising the grade of their property. The fire company is situated below that property and in the event of snow and/or rain; there is a fear of the property flooding; it is definitely not advisable. They have not seen any engineer reports on how they will get rid of drainage. There is also another house of worship renting the Church. Mr. Schoonover fears the project will not be completed all the way through, considering the financial costs, and like many other projects it will go awry.

Steve Beckerle, Beckerle Lumber, has the same concern with parking. The Church does not have sufficient parking with the current facility as is and uses Beckerle parking facilities. He believes that asking for less parking and adding more structure is the reverse direction from which they should be going; they should be seeking more parking and less structure. Parking is a major issue that produces a negative, economic impact for their business because the Church uses Beckerle parking. If Beckerle wanted to open on

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Sundays, they would not be able to because the Church uses their parking. Draining is another issue they want to make sure does not affect the business.

The Pastor of the United Methodist Church is concerned with safety and well-being of the community due to the amount of variances requested. The code requirement is based upon the size of the building, which would require 110 spaces. Her congregation is about the same size as his and they park on the street. Madison Avenue and Chestnut Street only allow for parking on one side of the street. There is absolutely no way to justify 80 or 90 something parking spaces just disappearing. She also raised the possibility of the congregation's growth. If they grow, where is everyone going to park? She asked where the other congregation that uses the Church would park. They park everywhere, even where not allowed. Personally, she does not want to stop anyone from being able to practice their religious expression. The spacing is less than required; how would a fire truck have access to the back of that building or hers in the case of a car fire or building fire? It is impossible. She empathized with Pastor Germain, but stated that it does not help the community or allow anyone to live safely. She would hate to see a building burn or see someone in the hospital or worse because the Board allowed the variances. The rules are in place for a reason. Unless there is a legitimate reason for offering all those variances, the application should be denied.

Pete Beckerle, Beckerle Lumber, said parking is a major issue but there are other variances as well. The business is not usually open on Sunday's but has opened on occasion. The Floor Area Ratio is about half of what it should be. Parking is only at 22 whereas 110 is required. There is potential for the business to be opened on Sunday due to a large demand from a population that needs to shop on Sundays. It will eliminate some of the parking they will be using. The vans that come into the Church and lumberyard will not fit into an 8-foot parking space, especially with a 90-degree angle turn needed to get into the parking spaces. To expand double the size of the building and eliminate parking spaces just does not make sense. He does not have a problem with the neighbors, and would want to Church expand, but that is not the space to do so. There is a steep slope in the back and not sufficient for parking. He spoke to the Pastor and told him if he needs that much growth then he needs to go to another location. Once the variance is granted, someone else may take over and have the right to use the space because it was granted by the ZBA.

Anthony Celentano responded to the concerns. As far as parking, the number of onsite parking has increased from 15 to 22. The drainage was examined by the Engineering Department; that is sufficient and will not affect the other lots. Far is not overabundant. In regards to fire safety, the building meets New York State fire code for access at all points. The Fire Department was concerned with the street being too congested to get the trucks out, his suggestion is to have the Village post a no parking sign to alleviate

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congestion on the street. If people are uncomfortable with parking they will not come to Church resulting in a loss of revenue, time, and money invested. With addressing the issue of this Church moves out of the building, if another Church comes in they would have to appear before the Board. This permit is only valid for this Church at this time.

Chairwoman Caldwell asked Mr. Booker about the Floor Area Ratio. Mr. Booker confirmed that .30 is appropriate for a place of worship. Mr. Hopstein asked if there was a traffic study, for which there was none conducted. Mr. Solomon suggested for the Church to obtain Village permission to use the municipal parking lot for Church parking. Chairwoman Caldwell was concerned with the floor area is that it is more than doubled. She suggested a continuance and asked the applicant to arrange for a parking agreement with the Village, and suggested taking the opportunity to look at the plans and reduce the size. The hearing was continued to the December meeting.

**PUBLIC HEARING: 120 Lake Street/ Weinstein**

The Building Inspector, Mr. Booker, read the Particulars. This is an initial public hearing for the application of 120 Lake Street/ Weinstein. The location is in the R-2 Zone on the east side of Lake Street, about 235 feet north of its intersection with Allison Street. The applicant seeks a variance to permit two principal dwellings on a single lot. The variances required are: Lot Width: 100 feet required, 50 feet provided (existing); Front Setback: 25 feet required, 17.3 feet provided (existing); Side Setback: 15 feet required, 2.52 feet provided; Total Side Setback: 30 feet required, 14.53 feet provided; Rear Setback: 20 feet required, 10 feet provided.

Mr. Katz added that the units were there when the applicant purchased the property and he seeks permission to turn an existing garage space into a one-family dwelling for the property manager's use. Most if not all of the variances are existing. Mr. Booker added that the building on the side would be cut down into a single and it does not exceed the zoning on a two-family property.

David Ascher, 664 Chestnut Ridge Road, Spring Valley, appeared as the attorney for the applicant. The current house has been rehabbed into a one-family and currently has people living in it and inspection was completed on it. It will no longer be a multi-family dwelling, simply two principal buildings on a single lot. One is occupied; the other is not. The property manager rehabbed the first building. He would live in the second unit with his family. He is not getting rent for it, but simply living there and managing the property. In 1999 when he purchased the property, both were existing. Hardship is not self-created. He is not seeking to gain money from it, but just wants to improve the

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Village he has been working on for so long. He completed work on it, but cannot get a C of O until the variances are approved. Mr. Ascher believes it is a win- win for the client and the Village. Mr. Booker remembered the work commencing years ago and then stopped. Mr. Solomon asked for the number of bedrooms, Mr. Ascher stated that two bedrooms are proposed. The Board reviewed the survey and all the other variances are existing ones. Mr. Ascher concluded by saying that this is an improvement for both the applicant and the Village, reminding the Board that Mr. Weinstein is also building the Post Office Square.

On a motion by Mr. Hopstein and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Hopstein and seconded by Mr. Solomon, the requested variances were approved 4:1, with Ms. Patrick in opposition.

*Mr. Hopstein*

*Yes to approve variances, not going to change anything and will improve the neighborhood.*

*Mr. Solomon*

*Yes to approve variances, by same reasons as stated by colleague.*

*Mr. Grossman*

*Yes to approve variances, by same reasons as stated by colleague.*

*Ms. Patrick*

*No to approve variances.*

*Chairwoman Caldwell*

*Yes to approve, Does not believe the changes are substantial, no difficulty, won't substantially change the neighborhood.*

**PUBLIC HEARING: Avon Gardens/ Sapphire Ventures, LLC.**

The Building Inspector, Walter Booker, read the Particulars. This is the initial public hearing for the application of Avon Gardens/ Sapphire Ventures, LLC. The location is in the R-3 zone on the west side of Union Road, at its intersection with Viola Road. The applicant seeks variances to completely renovate the existing buildings and grounds. The variances required are: Front Yard: 30 feet required, 14 feet provided; Side Yard: 20 feet required, 13.7 feet provided; Floor Area Ratio: 0.6 permitted, 0.79 requested; Parking Spaces: 380 required, 210 provided; Density: 18 units per acre permitted, 22 units per acre proposed; Building Spacing: 35 feet required, 9.9 feet proposed for multiple buildings.

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Mr. Katz stated that the applicant is seeking reconstruction of the development, which is more than fifty years old. According to the papers submitted, after the reconstruction, the property will be brought into the state building code. Mr. Licata appeared on behalf of the applicant as the attorney, along with the engineer, Leonard Jackson and the architect, Robert Bernstein. Mr. Licata stated that the project consists of 196 units that needs substantial renovation. It will have the same footprint. The number of units will be reduced down to 190 units, resulting in a net loss of six units. The existing parking is at 184 and will add 26 for a total of 210. The project is approximately fifty years old and does not comply with any of the local standards of 2011.

Traffic safety was a major item in the Planning Board and CDRC meetings. The largest traffic change is the elimination of the middle driveway that comes off Union Road. The driveway that comes off Viola Road is now two lanes and it will be separated into three lanes (two lanes out and one lane in), separated by a grass median in between. Twenty-six parking spaces are added, and retaining walls will be added. There is a significant slope in the parking area that will be removed and the entire area will be re-graded. There will be less of a pitch, which is a problem in the winter with melting snow and ice. It was previously discussed how the existing road is close to the existing building at the entrance off Union Road at the CDRC meeting with the Village Planner and Building Inspector ; that will be removed. Emergency access from Viola Road will be made into three lanes from two lanes. There will be accommodations made for fire trucks. There are plans for two, two-hundred indentations for different modes of transportation. As far as recreation, there is a two-tiered playground area. One level is for younger children, the top tier is for older children and it will be fenced off. The variances are existing already. The variances are existing and the footprint will remain the same, but there will be a change in ingress/egress.

The project engineer, Leonard Jackson, of Leonard Jackson Associates, 26 Firemens Memorial Drive, Pomona, NY, testified on behalf of the applicant. The existing site will be on the same foundation and they are almost identical. There will be improvements made; everything that will get done will be more improved. Upon presentation before the Planning Board, they received a negative declaration. A negative declaration means there is no significant impact on the environment. Spacing between buildings requires a variance. The one variance that they are creating a need for is the Floor Area Ratio., which actually meets the requirements of the code, but because they are making the size of the units larger, it is at .79. It is a desirable project improving safety, and producing better parking, access, traffic and circulation.

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Mr. Booker made the distinction that the 9.6-foot building separation is an isolated incident between three buildings; that is not a common distance. Chairwoman Caldwell asked for a definition of "larger" (units). Mr. Jackson replied that the increase would involve the construction of two/three bedroom units and some four-bedroom units. There will be a little bit of something for everyone. Mr. Booker reiterated that there will be fewer units, but the new units will be slightly larger, thus creating a larger Floor Area Ratio.

Architect Robert Bernstein, of Artistic Building and Design, 55 Union Road Spring Valley, testified that the new buildings would be three stories, rather than two stories, and make more room for each apartment. A number of the units are in very bad shape. The wood in the walls are rotted. There are issues with water getting into the electrical system. They will take the development and make it current for code. The units will be townhouse style with firewalls up into the attic. The stairs are in disrepair, the new stairs will comply with current codes. There are currently no sidewalks to get to parking and access will be created through walkways or bridges. Tenants will have access to parking from the back of the buildings and able to access the ground floor with the use of elevators and stairs. The elevators and stairs will bring them into a courtyard. This cannot be done right now. Those who are handicapped will have the opportunity to park and get to the units on the first floor. Some units will be one, two, and three bedroom units; some will be two story or single story units. The playground will be approximately 7500 square feet. It will be a secure, two-tiered playground. The units do not comply with energy code; the insulation is almost all gone. The new units will be brought up to today's standards and in still in compliance with the code 50 years from now. The appliances will all be energy star or high efficiency. The heating system will be replaced with a new system. The applicant plans to create a green-design. Chairwoman Caldwell asked how long the applicant owned the property and asked why there are so many violations on the building if it has been under ownership for fifteen years.

Public participation was opened. Approximately 30 current, long-term tenants of Avon gardens and surrounding neighbors appeared before the Board in opposition to the application. They also distributed a petition. Tenants testified about the deplorable living conditions and insisted that ever since ownership changed 15 years ago, the buildings have deteriorated. The repairs and maintenance are never completed. The explanation received by the tenants is that maintenance does not have any materials. The tenants asked when the renovation would begin and if each are guaranteed a new unit. The tenants insisted that they did not run the buildings down, the owner did. Tenants have to place numerous calls in order to have someone address maintenance issues. The tenants questioned for whom the new buildings are built and where will they during the renovation? There is no regard for the existing tenants. The tenants are asked if they would be willing to relocate. The tenants insist there was an ulterior motive to let the

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buildings deteriorate in effort to force the existing tenants out. Why was it allowed to deteriorate?

There is negligence that causes physical injuries to tenants. There are leaks and rotten ceilings. Tenants suffer from numerous ailments. Safety is a major concern. Stairways and sidewalks are broken. Nothing gets replaced. The buildings are rat and mice infested and the owner does not even provide mice traps. There is no hot water. Gutters hang off the buildings until they fall off, which presents a danger to the tenants. Bricks are falling off. Mold gets painted over rather than removed, resulting in lung ailments and furniture damage. There are holes in the ceilings. There have been offers to relocate residents, but the alternatives are in just as bad condition as Avon Gardens. There are \$25.00 late fees imposed when the rent was paid on time. The Building Department has come to inspect the buildings. There are no lights. These issues are visible so why are they not addressed. Several offices, including the Rockland County Health Department has been called, but the complaints were never addressed.

Mr. Licata addressed the tenants' complaints and concerns. Mr. Licata insisted that no one is getting thrown out of their apartments. The units are not promised to anyone; anyone can rent them. Federal and State law prohibits discrimination against anyone. When the units are renovated, anyone can apply for an apartment. The original plan was to do it in stages, starting with the worse ones first. There are many vacant apartments; and the landlord is losing a lot of money in rent. There are numerous safety issues. The apartments cannot be fixed while inhabited; they must be gutted. The repairs are substantial and structural things must be fixed.

Mr. Booker has gone into six apartments after receiving a call from tenant, Mr. Lundi. He discussed the apartments' condition. He saw brick falling off and deemed the buildings as extremely dangerous. He called the owners and told them he would condemn them immediately, but the owners wanted time to move people around so they would not be displaced all at once. They are trying to gently ease people out. Mr. Booker explained his jurisdiction is strictly the maintenance and construction of buildings to code. What he saw in the buildings could not be repaired. To deny the project would be forcing repairs to buildings that cannot be repaired. It would not be safe to fix what is there and beyond repair. Building 155 and 151 are especially unsafe.

Chairwoman Caldwell expressed her discontent that the buildings were allowed to deteriorate to the point of condemn. How it could it be brought to this level. They have been complaining for 15 years. How do the authorities (Building and Health Department. There are guidelines for rent-controlled apartment and none have been adhered to? No one is held accountable through all these years? She expressed her difficulty in understanding that.

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Mr. Booker expressed being surprised himself; he is unaware of what has happened before. He does not get call he would expect until Ms. Lundy called. Mr. Booker guessed that the damage to the buildings took more than 15 years to begin. Although he understands the tenants' concerns as to whether or not the project is for them, he understands that this project needs to be completed.

There was additional concern over tenant removal and if they will be offered the same lease upon the completion of the project. Mr. Licata answered that the landlord had an easy out in that Mr. Booker did not order it condemned, but he cannot be guarantee for the tenants to receive the same lease. 115 empty apartments cannot be rented, spread throughout the complex. Chairwoman Caldwell asked if there is at least one building that is completely vacant, to which Mr. Licata answered there is not. Chairwoman Caldwell why the tenants cannot be transferred to some apartments in the buildings that are habitable in the meantime, rather than taking them completely out. Mr. Licata stated that this has been done for about fifteen tenants; the tenants disagreed.

Don Thompson testified that there are ten apartments in his court that are empty, five in another, so why can't they serve as temporary housing until completion of the renovation by starting with one half then move to the other side. Mr. Licata said part of the project involves moving and rebuilding the entrance, therefore creating no entry or exit way. Chairwoman Caldwell stated that it is illogical to tear up the grounds before renovating the building. Architect testified that every apartment was damaged from the roofs down to the basement, the wood behind the brick is gone and there is nothing left to the wall. The brick is holding up the roof. The parking lot is very steep and the rain flows through the brick. Even if you demolish the building, you cannot put up another because the wood is still below the level of the parking lot. The parking lot needs to be leveled first and then can you can start building by building.

The question was raised about the time the project will begin and be completed. Mr. Mr. Licata predicts that will begin in the Spring and take about a year to complete. Chairwoman Caldwell suggested for the applicant to examine how the tenants may be accommodated as to avoid displacement. She would like them to come back before the Zoning Board with a better plan. She advised the tenants to seek an attorney for representation about their concerns. She urged them to place calls and continue to make the necessary calls. If the owners and maintenance are not being helpful, there is recourse that the tenants should utilize.

Engineer, Angeles Padilla, appeared before the Board and said revising the plan to prevent the tenants from becoming displaced should be done. The variances are existing. He believes the FAR should be granted an approval. He can come up with a plan before the Planning Board meeting to figure out if tenants can be moved around. If he had to

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make a decision on moral grounds he would stand with the tenants. But he believed the zoning variances should be granted and the issue of displacement should be discussed before the Planning Board. That way there can be progress. Everyone agreed about the buildings' need to be replaced, but at least in the interim allow the project to proceed before the Planning Board.

Aryeh Frankel, 9 Eleanor Lane, lives behind the Avon Gardens parking lot. He has an issue with the placement of the playground that would be directly behind his backyard. The playground's placement is "literally in the backyard" of a few of the houses that are in back of Avon Gardens. He also added that the playground would most likely be very large to accommodate about 200 families that will reside in the buildings.

Mr. Grossman told the tenants that his heart goes out to them for having to live in those conditions and it is unfair that a landlord would allow them to live in such conditions, however, the issues they raise are not the Zoning Board's jurisdiction, but for the Planning Board's consideration. The Zoning Board cannot address the complaints of disrepair. Mr. Licata repeated that some of the issues, such as the playground are Planning Board issues. The other concerns are to be resolved by the Health Department and other respective departments.

Chairwoman Caldwell recommended for the applicant to return before the Zoning Board with a better plan, and also advised the tenants to seek counsel from an attorney. Chairwoman Caldwell suggested leaving the public hearing open so the tenants could seek an attorney and see if their concerns may be resolved.

On a motion by Mr. Solomon and seconded by Mr. Grossman, the Board voted to close the public hearing 3:2, with Chairwoman Caldwell and Ms. Patrick opposing. Chairwoman Caldwell opposed closing the public hearing because there are issues that have not been addressed, such as the number of apartments and whether it is a two or three-story building. Chairwoman Caldwell asked for a finding from Village counsel. Mr. Grossman explained his reason for voting to close the public hearing; none of the issues pertained to the Zoning Board. On a motion by Mr. Solomon and seconded by Mr. Grossman, the Board voted 3:2 to approve the requested variances.

*Mr. Hopstein*

*Yes to approve, would like to add an amendment to have all items presented to be addressed by Planning Board. If they approve I will vote yes.*



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use variance is granted, it will not alter the essential character of the neighborhood, and that the alleged hardship has not been self-created.

The applicant is willing to have the Board grant the variances for a limited period of time such as five years, after which they would expire. Mr. Katz does not recommend it, but is just informing the applicant of that right. The Zoning Board can open and hear the matter, but cannot close the hearing and issue a decision until the Planning Board has completed its SEQRA review and issued a negative declaration.

Mr. Licata 222 Route 59 Suffern, NY, appeared as the applicant's attorney. The building is constructed already with no intent for new construction. The use variance is being requested to allow an auto repair shop. The tax returns are attached to page 3 of the application, which indicates a loss of \$57,123. One of the owners can confirm that it has been vacant for a year, without any prospective tenants besides a taxi company. The applicant is present to affirm his testimony and answer any questions. Hopefully they can get the negative declaration from the Planning board, and asking for an extension until the next meeting. Ms. Patrick asked for the exact location. The property is located next to Kulle Tires, directly across Commerce Street from the train station.

The applicant, Ariel Jacobov, 22 Tioken Lane, Monsey testified that although they are interested in contributing to the gentrification of the area on a longer basis, a five year variance would be appropriate to cover building expenses and taxes. There is a tough financial market and as far as retail use, there are many vacancies along Route 45, to commit to something. The auto body shop is the only serious business that has approached them. He concluded by saying that in the meantime, it would be a good use for the property. Chairwoman Caldwell asked how long the applicant has owned the property. Mr. Jacobov testified that it has been under ownership for a year. The tenant they had moved out shortly following their purchase of it. There is a big sign on the property, but only the auto body has stepped up to the plate. Mr. Solomon asked for the tax amount, to which Mr. Jacobov answered \$60,000.

Mr. Zachary Sirotowitz, 11 Allan Drive, Monsey, appeared in opposition to the application. He stated there is already an existing need for adequate parking. In a three-block radius, there are currently about seven auto repair shops, and one does not have adequate parking. The only parking facility they have is their driveway, they have cars parked all in the front of the driveway, but without adequate parking, they park in the street. He believes the case will be the same "ugly view" along Lawrence Street if these variances are granted. There will be double parking along the street, tow trucks would have to back in and create blockage, and customers will need to have a place to park. Any cars that park in the area would be double-parked and would also have to park in the bank parking across the street. The properties were purchased with the full knowledge that it

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was in the Urban Renewal District. When they brought it they knew they would be a problem renting, and he is sure it was reflected in the price they purchased it.

Mr. Licata countered that the legal issues are not for Zoning Board, they are for Planning Board. Looking at the survey, they are two empty lots the applicant owns that may be used for parking. One of the issues Mr. Kauker raised at the Planning Board meeting was the parking issue, which will be addressed at the next Planning Board meeting. Licata added that they are not requesting a variance for parking. The hardship was not self-created and the applicant is not responsible for the economy. It will not change the neighborhood, as there are seven repair shops. It is unfair to allow everyone else to make a living. He requested an adjournment. Chairwoman Caldwell asked for a list of attempts made to rent out the property and advised the opponents to attend the Planning Board meeting for the thorough review of those issues. The Zoning Board will be unable to make a decision on the matter, until Planning Board makes a decision. The Board agreed to continue the matter to the next meeting.

**PUBLIC HEARING: Union Park Estates/ Union Park Estates Management, LLC.**

The Building Inspector, Walter Booker, read the Particulars. This is an initial public hearing for the application of Union Park Estates/Union Park Management, LLC. The location is in the R-3 zone on the east side of Union Road, about 100 feet south of its intersection with Stetner Street. The applicant seeks a variance to convert nine existing basements into apartments. The variances are: Existing: Lot Area: 40, 000 square feet required, 39,999 square feet provided; Front Yard: 30 feet required, 21 feet provided; Rear Setback: 50 feet required, 25 feet provided; Floor Area Ratio: 0.6 permitted, 0.75 proposed; New: Parking: 36 spaces required, 19 spaces provided; and more than 18 units per acre. Mr. Katz added that the only new variances are for parking, where 36 spaces are and 18 are provided for more than 18 units per acre requested. The property is about 3,000 square feet less than an acre.

Mr. Ryan Karben, 11 Tara Drive, Pomona, appeared as the applicant's attorney. The Board has previously granted variances for this property located on 111 and 113 Union Road. When the buildings were constructed, there was existing space set aside with supplementary kitchens and additional space, which was utilized by the occupants of the units. The applicant is seeking to convert that space into additional dwelling units. They will not be any construction or expansion of the footprint. Everything here is within the confines of the existing structures that received approval by the Zoning and Planning Board. A new parking variance is required; all other variances have already been granted

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by the ZBA. The issue is the criteria to support the parking variance. The parking proportion in relation to the number of units is not inconsistent with other multiple dwelling units in the Union Road area. The methodology by which parking is calculated does not always match up with the reality of the parking required. The additional units would not generate any additional use of vehicles beyond what is currently on the site. The 19 spaces currently provided and utilized on the site are adequate for the parking needs. The existing multi-family dwelling units in that same area also do not meet the minimum parking requirements. There is a consensus that the new housing development is aesthetically pleasing and an amenity to the community. The applicant has reached out to 78 neighbors prior to this hearing and did not receive negative feedback. This has been a well-executed development.

Justin Schwartz, member of the Spring Valley Fire Department and Lieutenant of the Spring Valley Hook and Ladder, appeared in opposition to the application. The Zoning and Planning Board have allowed a loose interpretation of parking requirements. There was a recent automatic alarm from that complex. There are no markings and no fire zones. There were two construction vehicles there and they could only get one truck. If it would have been a fire the ladder truck and tank were parked on the street. There is no adequate parking and it is a safety hazard. If you approve it, it will be difficult. They have sprinklers, but the fire trucks cannot get through. Traffic on Route 45 is already horrendous. If there is a party there won't be adequate parking. 105 South Madison Avenue has many violations in the parking and fire zones, on Sundays it is difficult to get a truck through Church Street, in the Jewish community there is more than one car, large families have more than one car. Where are they going to park? He begged for the loose interpretations to stop. He has been here for 30 years and has been in too many fires due to the lack of enforcement. Residents are put in danger. There are 80 dedicated active firefighters who do not want to lose people. Please do not approve this application; it is putting fellow citizens in jeopardy.

Joyce Trubitz, 6 Youmans Drive, also appeared in opposition to the application. Ms. Trubitz lives behind the property. She made the point that the project was originally approved for two, four-family homes. She does not understand why the applicant is allowed to change this later. She believes it sends the message that every homeowner should be able to build first, then seek approval later. She stated that if she could, she would build first and get approval afterwards. Ms. Trubitz testified that the garbage area is a disgrace with overflowing garbage; it is also located close to the curb. She believes there should be a closed gate because it is a disgusting sight to see on a daily basis. Nine more families would add to the garbage and parking problem. There would not be enough parking, even with the assumption of every family only having one vehicle. The location is not safe and very difficult to turn vehicles around.

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Mr. Karben responded to Ms. Trubitz's concerns by stating that New York State Fire Code sets the construction and the application complies with the distances set by fire code, has sprinklers, and deemed to be safe. The Board does not have the right to waive the code. Mr. Karben insisted that it would not be a problem for the applicant to put a gate in the refuse area. As for parking, these homes are starter apartments for young families with a smaller amount of children and not accommodating to larger families. The striping was not a requirement. The property permits the municipality to issue tickets in order to ensure safe conditions. Lastly, the parking ratio is consistent with other parking ratios on Union Road approved by the Board.

Mr. Schwartz stated that even if parking tickets are issued it does not mean it will change anything. Adding more residents to the area would create more traffic and parking would be inadequate. Only one fire truck can enter the property and it is not worth jeopardizing lives. Mr. Karben interjected saying that if the Board preferred striping; the applicant will comply with the Board's request. He also agrees for his client to place a crash gate. Chairwoman Caldwell addressed several letters related to the application. Mr. Katz added that the Sewer District issued a letter dated November 9, 2011 stating that \$22,200 was not received and was needed within 30 days, for which Mr. Karben had no objection to.

On a motion by Mr. Gross and seconded by Mr. Hopstein, the Board voted unanimously to close the public hearing and then reopened. Mr. Hopstein asked Mr. Booker if he had walked through the property. Mr. Booker replied that he did visit the site. He believes a fire truck would have difficulty exiting because it is tight. Mr. Booker stated that Mr. Schwartz would be the better authority on the issue, as he does not have the knowledge to address those concerns. Mr. Hopstein asked Mr. Booker if that is sufficient. Mr. Booker answered that a crash gate would be required and hopefully when the stripes are added then people would adhere to them. Mr. Trubitz added that it would be difficult to see and make a determination because at present not all units are occupied. Mr. Karben acknowledged that there are only two cars for seven families currently residing there.

The Board agreed to continue the public hearing to the January meeting.

***On a motion by Mr. Hopstein and seconded by Mr. Solomon, the public meeting was adjourned at 11:35 pm.***