

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

July 17, 2018

Chairperson Sweet made a motion that all actions taken tonight are excluded, exempt or Type II actions for the purpose of the State Environmental Quality Review Law unless otherwise stated. Motion seconded by Matthew Brancato, unanimous approval.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-08

IN THE MATTER OF: ESW Realty, LLC

WHEREAS, ESW Realty, LLC, contract purchaser of property situate in a Central Business, B2 Zoning District in the 3rd Ward of the City of Oswego, New York, with address 275 West First Street, being Tax Map Number: 128.63-03-03, has applied for a Special Permit in accordance to Section 280-33(B) of the City of Oswego Code, to allow a drive-in service and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared.

Bob Abbott, an architect representing ESW Realty, with address of 2501 James Street, Syracuse was present for the discussion, as well as Councilor Hill. Mr. Abbott said they have been to the Planning Board a bunch of times. He said they made some changes to the building but the building tonight is unchanged from the last meeting with the Planning Board. He said the building is a little under 2,000 square feet. He said it is a single story brick and stone building. He said it has some of the new Dunkin Donuts signage to it. He said there will be one entrance as far away from the corner as they can get it. He said they pulled their site in 6 feet to accommodate parking for the YMCA. He said that gives them an in driveway and angled parking. He said they can't come back out that driveway because it will be an in only. He said it will allow them to drive to the back of their building so they can have increased parking behind the building. He said as they come back out they will have to turn and come onto Dunkin Donuts site and exit through that exit. He said they still have enough parking on their site for their restaurant. He said they will clear the area in the back and put a patio there so people can eat there and have views to the river. He said they know there has been a traffic concerns. He said they did a traffic study and they have Jim Napoleon here to answer any of those questions. He said there won't be a traffic concern because all the traffic that is going to use Dunkin Donuts is traffic that is there now. He said they utilize existing traffic. He said there was a concern from SHPO to see if they were an archeologically sensitive site. He said they have provided written documentation that there has been major ground disturbance on that site back to the 1800s. He said there are still traces of concrete foundation on the site today so they have cleared that hurdle also. Chairperson Sweet said they are allowing the YMCA to use their exit. She asked how that affected the traffic study. Mr. Napoleon said he grossly overestimated the volume of traffic they expect at the site. He said the people at the YMCA park for at least a half hour or more. He said the volume of traffic he analyze is much more than they could expect for Dunkin Donuts and the YMCA. Chairperson Sweet said they already have traffic at the YMCA. Mr. Abbott said there are multiple curb cuts there. He said they are going to organize that. He said at any time during the day there is probably 15-20 cars parked

there so they are trying to organize that for them. Chairperson Sweet said she doesn't want that to impact their application. Mr. Abbott said they are here for the special permit for the drive thru and that isn't going to affect the drive thru. He said they have a very good stacking arrangement for this Dunkin Donuts. He said he knows the eastside Dunkin Donuts has a stacking problem but they don't anticipate that here. He said they would have to go around all four sides of the building to even come close to going out onto the street. Frank Clavelli, Jr. said that Anthony Pauldine was named in the Planning Board minutes. He said he doesn't remember if he was for or against but questioned whether he should vote here. Mr. Caraccioli said he was raising issues on the amount of time it takes for a vehicle to enter and leave a Dunkin Donuts. He said the average is 2 minutes and 30 seconds per order. Anthony Pauldine said he didn't express a viewpoint for or against. Mr. Caraccioli said there was also a statistic put out there that every 20 seconds a Dunkin Donuts customer enters and exits. Anthony Pauldine said that was something he found online. Mr. Caraccioli said that was for peak hours. He said the drive thru is what this Board is here to discuss. He said this is a Type 1 action so it was subject to a long Environmental Assessment Form. He said the Planning Board is the Lead Agency and it is a coordinated review. He said the Planning Board identified three areas that had some impact. He said there was impact to the land because of proposed construction but nothing was identified as moderate to large impact which would require further investigation. He said the other significant finding was an impact on the aesthetic resources but that garnered no to small impact may occur and that doesn't trigger further review. He said the impact on historical or archeological resources was also marked yes and there were some moderate to large impacts that may occur. He said those included "The proposed action may occur wholly or partially within, or substantially contiguous to, any building that is on the National Historic Register". He said clearly the Oswego Armory is. He said the other is "The proposed action may occur wholly or partially within an area designated as sensitive for archaeological sites on the SHPO archeological site inventory". He said SHPO didn't designate this as such but they have recommended that an archeological study be done unless proof can be submitted of substantial ground disturbance at that site. He said that is what Mr. Abbott presented to the Board. Anthony Pauldine asked if that information has to go to SHPO for their determination. Mr. Caraccioli said yes. He said it was a recommendation by SHPO. He said the information has been sent to SHPO and is under review. He said SHPO's determination can't supersede the local board. He said the local board has the final say. He said Dunkin Donuts paid for a service out of Connecticut that takes the area in question and looks at historic maps of the site to see how it has changed. He said the maps provided are from 1972, 1960, 1924, 1907, 1897, and 1890. He said in 1972 the map shows the candy factory. He said in 1960 the same footprint was used. He said in 1924 there is a candy factory there but with a different footprint. He said in 1907 you have a completely different building there with a different footprint and roofline. He said in 1897 it shows the same roofline for the candy factory but there is no Armory. He said in 1890 it was labeled as a casino and opera house. He said there appears to be evidence of ground disturbance. He said if it was undeveloped, pristine land next to a historic site and was never dug up then there would probably be some value in the archeological study to see if there is some archeological significance here. Anthony Pauldine said that will go back to the Planning Board. Mr. Caraccioli said yes. Chairperson Sweet said they are looking at the special permit and need comments only to the fact that they are entertaining a special permit for this

project for the drive thru service. She said it is in a B2 business district. She said the permitted uses are retail stores and retail service, business offices, personal service, restaurants and bars, hotels and motels, religious institutions, community centers, indoor recreation, clubs, funeral homes, and accessory uses. She said special permit uses are gasoline stations and car washes, drive-in service, wholesale stores, public utility facilities, commercial parking, automobile sales, other commercial uses upon the finding that such use is compatible with those permitted and which will not be detrimental to other uses within the district or to adjoining land use, multiple family dwellings, one and two-family dwellings, commercial marinas, mooring slips and private marina yacht clubs, residential use of second and/or third floor premises or portions thereof, as separate one-family dwelling units, condominium dwellings as a special permit use in the B2 Central Business District, internal conversion of attached garage or porch to living space, and internal conversion of pre-existing non-conforming use for additional living space. Chairperson Sweet said before she opens this up there will be no asking of questions directly to the applicant and people need to go one at a time with no shout outs. She asked if there was anyone in favor of this application and Barb McCleary of 201 West Second Street said she just had some questions. Ms. McCleary asked if the traffic study included information about any police reports that were filed for accidents that occurred in or near that intersection. Chairperson Sweet said no. Mr. Caraccioli said the absence of any accident data in this study doesn't mean the accidents didn't happen. Ms. McCleary said the people that go to the YMCA will be routed through the Dunkin Donuts property. She asked what will happen when there are special events at the YMCA. Chairperson Sweet said the YMCA already has events. She said there is no formal in or out. She said it is a big lot and they come and go however now. She said the YMCA traffic will still be there. She said they are just being kind enough to offer the 6 feet to them for the parking. She said whatever the YMCA does cannot impact this and the YMCA should be handling their own parking. Ms. McCleary asked about the increased liability due to safety risk of cars going in and out of a drive thru. She said her concern would be pedestrian traffic. Frank Clavelli, Jr. said the pedestrian has the right of way. He said they would have to use their common sense when crossing. Ms. McCleary said there are a number of people that are older and may not be as quick on their feet as someone else may be. She asked who has the liability if someone is hurt and the safety risk was pointed out. Chairperson Sweet said they don't deal with speculation. She said no matter what or where they grant there would be the possibility of this. She said they will take into consideration the walking path. She said they will also take into consideration that there is a gas station, credit union, Big M, apartment building, and YMCA that has a lot of traffic. She said it is a busy intersection. She said that is probably why it is a prime location for businesses to look at. She said it is their job to look at it and go through the criteria. She said this is a business that is allowed in a B2. Ms. McCleary said it requires a special permit for the drive thru. She said it is different to put a drive thru there versus a drive thru in a less busy intersection. Chairperson Sweet said the Board also has to look at this in common sense way. She said they have criteria and laws to go through. Mr. Abbott said whether Dunkin Donuts goes there or not that intersection will remain a busy intersection. He said they are using what is there now. He said it is unorganized now and they are going to organize it into three lanes – two exits out and one in. He said it will all be controlled with striping. He said it further allows the YMCA to have a more intact way to get in and out of their site. Chairperson Sweet said they have a lot of drive thru's. She said

they have Pathfinder Bank at East First and Bridge and the credit union at East Fourth and Bridge. She said these are all heavy pedestrian areas. She said there are banks down Utica Street and there are a lot of walkers there. She said they do have drive thru's downtown. She asked if there was anyone else in favor of this application and Tom Santurri of Song Lake Road, Tully came forward. Mr. Santurri said he is one of the partners for this project. He said they wouldn't look at a site that didn't have existing traffic because it doesn't make financial sense. He said they utilize existing traffic. He said they have addressed the safety concerns. He said there are a lot of people that have trouble getting in and out of cars due to physical problems, small children in the car or illness so that is why drive thru's are important. He said the weather in the winter makes it so that people don't want to get out of the car. He said it adds some benefit to the community. He said it is an early morning business and a lot of the businesses aren't open early morning so it shouldn't concern people that it is going to take away other business. He said as far as the 20 second car count, even at three hours with that traffic amount, that location would exceed the national average for the whole day. He said with the addition of the patio and improving the property it would be an asset to that area. Chairperson Sweet asked if there was anyone opposed to this application and Katherine Turner of 150 East First Street came forward. Ms. Turner said she called the police department and asked about the number of accidents on that corner. She said last year she thinks there were 7-9 accidents. She asked what part of their consideration goes to the people of the city. She said there are about 1700 names on the petition. She said she was at the last meeting and some of the things that were checked off as small impact were a big impact to people in the audience. She asked them to think about what is best for the city. She said rather than putting something there that will be bad for the city why don't they wait to see what else could go there. Chairperson Sweet said she needs to be specific. She asked how it will be bad for the city. She said they have to go by the ordinances set forth in their zoning code. Ms. Turner asked when they decide if it is the best thing for the city. Chairperson Sweet said that is what they have to consider. She said they are an independent Board. She said the city doesn't tell them what to do. She asked why it is bad for the city. Ms. Turner said the traffic is the main reason she is concerned about it. She said she went to the Liverpool, Fulton and Oswego stores. She said they found the Fulton store to be chaotic. She said Oswego wasn't much better. She said there were cars lined up on East 13th Street waiting to get into their drive thru. She said you can't have that on West First Street. The next to come forward was John Manasseri of 45 West Third Street. He said he is a licensed architect and a planner. Mercedes Niess also came forward with him. She stated they wrote their questions out for them and handed them to the Board. She said she and Katherine Turner did the study at the Dunkin Donuts. She said it is about 50 cars per 30 minutes. She said that was at about 10-10:30 in the morning. She said another person did a pedestrian study too and she handed out that information. Chairperson Sweet said they may not be able to answer all of these questions tonight. She said their job is to look at the drive thru for a special permit. Mr. Manasseri said there is a major flaw with the site plan. He said when the vehicles are exiting the drive thru they will be blocking the sidewalk. He said between the curb and the sidewalk is less than the length of a vehicle. Mercedes Niess said it is a very narrow entry and exit so that requires a sharp turn. Mr. Manasseri said there was no traffic study done. He said there was just an observance of the existing traffic law. He said there wasn't a traffic study done to see if there were any problems with the project. Chairperson Sweet asked the problem

with it blocking the sidewalk. She said with the drive thru's in the city when you are waiting to come out the car is blocking the sidewalk. She said the bank on the eastside you have to cross a sidewalk and stop before you pull into traffic. Mercedes Niess said it won't be the same volume of traffic. She said it is a great corner for Dunkin Donuts. She said the volume of traffic is a concern. She said for the Farmer's Market they direct traffic up West First and then have them turn at Mohawk Street. She said they should consider the size of the sidewalk and how that is going to back things up. She asked if they are going to be able to make a left coming out of Dunkin Donuts or are you going to force people to make a right and go down into the downtown and cause major congestion there. She asked how the left going into Dunkin Donuts would affect traffic flow in that area. Mr. Manasseri said this developer has every right to develop property but he doesn't have the right to disrupt the traffic on West First Street. Anthony Pauldine said almost everything on the list would have been well suited for the Planning Board. He said almost everything is a Planning Board issue. He said the only thing this Board can look at tonight is can they approve the drive thru. He said they would have to talk to Jim Bell because evidently they have met the criteria. Mr. Manasseri asked where the entrance and exit signs are. Anthony Pauldine said that is not for the Zoning Board. Mr. Caraccioli told Mr. Manasseri that he is being a little argumentative and they need to stick to the drive thru tonight. He said the site plan is the function of the Planning Board who will meet again on August 6th. John Clark of 64 East Mohawk Street said he was told by a Planning Board member that discussions of safety would come to the Zoning Board. Anthony Pauldine said he doesn't see the list of questions in front of them. Chairperson Sweet said they consider safety in granting a special permit but they can't consider sheer speculation of what might happen. She said she will grant them that accidents happen at that intersection. She said it is a busy intersection. She said there is a gas station, Paul's Big M and the YMCA has a lot of traffic when they have a lot of events. She said what they need to look at is the drive thru aspect and not that it is Dunkin Donuts. She said they have to consider other businesses in the area that may have drive thru's. She said they are allowed by special permit to have a drive thru. She said she is hearing that there are people walking but how many people. She asked if there are a lot of people that will be going by there between 6-9:00 a.m. when their peak hours are. She said this is what they have to look at. Mr. Manasseri asked if they consider what the big picture is when they do that. Chairperson Sweet said absolutely. Mr. Manasseri said the site plan is dangerous. Matthew Brancato asked why it is dangerous. Anthony Pauldine said the site plan is for the Planning Board. Chairperson Sweet said they can look at it. Mr. Manasseri said his main objection is the distance between the curb and the sidewalk is less than the length of a vehicle. He said they will be on the sidewalk trying to get out of there. Frank Clavelli, Jr. said it is the same at the Big M. Mark Brunschweiger said it is the same as his driveway. Anthony Pauldine said it is the same with the old YMCA. Mr. Manasseri said there could be 3-4 cars backed up at the exit. Chairperson Sweet said when the YMCA or Armory had huge events you would have 50 cars coming out at once. Mercedes Niess said that is not a car coming out every X amount of seconds. She said it is the same with the banks. She said they are not having the volume. She said they are not having 50 cars in a half hour going through the bank's drive thru. She said Mr. Manasseri is saying the site plan is not accommodating that. Chairperson Sweet asked what the peak hours are. Mr. Santurri said between 6-9:00 a.m. Mark Brunschweiger said the traffic study was done between 7-9:00 a.m. with 117 vehicles per hour. He said that is roughly two

vehicles per minute. He said with a drive thru it is one vehicle at a time. Frank Clavelli, Jr. said he thinks they are missing the point. He said no drive thru gets you in and out in 30 seconds. Mr. Manasseri suggested they table this until they have the right information on traffic interruptions. He said the Planning Board requested a traffic study and not for them to just observe the existing flow. Chairperson Sweet said they did one. Mercedes Niess said it was paid for by the business. Chairperson Sweet asked who else is going to pay for it. Mercedes Niess said they didn't do a projection study. Anthony Pauldine asked if this goes back to the Planning Board. Chairperson Sweet said that part does. She said they are here to just consider the drive thru. She said the Planning Board is not finished with the site plan review. She said most of the questions are for the Planning Board. She said if this passes tonight it will be contingent on the passing at Planning. Mr. Abbott said the special permit means they are allowing them to do this based on the fact that there won't be a problem in the future. He said the Board can always revoke the special permit if there is a violation occurring on the site. Mr. Manasseri said he is saying there will be. Mr. Abbott said they are saying that the traffic study says there won't be. Mr. Manasseri said they didn't do a traffic study. Mr. Abbott said Mr. Napoleon did it. He said he was out there many days and not just one time and he took into account the drive thru. Mr. Manasseri said he did not. Mr. Abbott said in the future if there is a problem the Board could revoke their special permit. The next to come forward was Barbara Jung of 9 Bridie Square, Apartment 6. Ms. Jung said the local businesses on West First Street are mostly all local people. She said a number of years ago Oswego started welcoming people with developmental disabilities. She said they come across the Utica Street Bridge to shop at the Big M. She said the light is not in tune to how fast they can go across the street. She said they have the people at Harbor House and most of them are seniors and don't walk very fast. She said she talked to people from all walks of life in Oswego who have signed her petition and are against this. She said 90% of the people she has gotten signatures from are against this. Chairperson Sweet asked her why she is against this. Ms. Jung said she already mentioned those crossing the street with disabilities. She said that is one reason. She said the traffic would be very difficult. Chairperson Sweet said the people at the Pontiac cross at St. Joseph's. She said she doesn't see them walk up to Utica Street to cross. Ms. Jung said these are the folks that she sees coming across the bridge. She said you are going to have people coming in and out of Dunkin Donuts and people from Big M doing the same thing. She said you can't say Pathfinder Bank has the same amount of people. Chairperson Sweet said she didn't say they have the same amount of people. She said they cross the sidewalk into the traffic. Ms. Jung said there is no busier area than the area they are speaking to. She said in their heart they must know what is best for the City of Oswego. She said she thinks most of them have made up their minds already. She asked if they are listening to the citizens of Oswego. Anthony Pauldine said he was at almost every meeting of the 2020 Vision Plan. He said he has been supportive of the plan but most of those items have not been made law. He said if he had his way there would not be a national brand in the historic downtown. He said unfortunately they have the laws that say this is permissible. He said he understands they are rewriting the code but they have to go by what is here. He said he doesn't want to vote against this and be arbitrary and capricious and end up with a lawsuit against the City of Oswego. He said the Board tonight is not looking at signs in public space. He said it is not looking at the amount of blacktop. He said it is looking at can they allow a drive thru. He said it is not the site plan. He

said they need to bring their concerns to the Planning Board. He said the Planning Board accepted the traffic study. He said that is not this Board. Frank Clavelli, Jr. said they have control within reason with this special permit. He said marijuana and gambling is going to become legal in the State of New York. He said either one of those facilities could go in that spot with zero permits and they would have nothing to say. He said they should be prepared for what they ask for because they just may get it. Anthony Pauldine said most of the people do not know who owns the property. He asked how many people have gone to ask that owner to wait for something better. Ms. Jung said she knows who owns the property and she understands that he wants to sell it. She said they are a government of the people, by the people, for the people. She said she thinks the Board should consider the people's wishes. The next to come forward was Kristi Eck of 41 West Seneca Street. Ms. Eck said she picked Oswego because she was intrigued by the energy behind the Oswego Renaissance Association. She said she was thrilled to see the Mayor and his team create the proposal that won \$10 million for the DRI. She said she is concerned that this will be eroding the good work the city is doing to try to revitalize itself, to protect its historic core, to live up to what they wrote in the proposal that got the \$10 million. She said that proposal said they are here to protect their assets along the waterfront and they are here to cultivate the buildings and businesses that are locally owned and not franchised. The next to come forward was Mary Kay Stone of 141 West Seneca Street. She said she is so proud of their historic downtown. She said this is a special permit so there has to be reason to be able to turn down something that is special. She said a fast food national chain restaurant at the entrance to their historic downtown is not right. The next to come forward was Nick Saterno, the real estate agent for Dunkin Donuts. He said this property has been for sale for years and no one has come forward with a contract to purchase it. He said the person who owns the property is allowing the YMCA to park there for nothing. Frank Clavelli, Jr. said it has been 41 years since the fire. The next to come forward was John Clark of 64 East Mohawk Street. He said it is a safety issue. He said they put a turn only lane for the eastside Dunkin Donuts because a drive thru changes the flow of traffic. He said this would be causing an issue there that doesn't exist now. He said it will increase the traffic flow because people will go there instead of to the outlying Dunkin Donuts because it will be more convenient. He said it will cause an increase of traffic and problems in that area. He said they have to consider what the worst case scenario is and then try to figure out the likelihood of that happening. He said a good lawyer will come after the city because of all the discussion of safety if someone gets hurt there. He said they will sue the city. Mr. Caraccioli said they can but it won't be successful. Mr. Clark said they will still have to pay to fight the lawsuit. The next to come forward was Austin Wheelock, Board President of the Heritage Foundation at 143 West Third Street. He asked if there is anyone on the Board working on the zoning code rewrite. Mr. Caraccioli said he is involved but there are outside contractors working on it. Mr. Wheelock asked if it will be finished in a month or two. Mr. Caraccioli said that is possible. Mr. Wheelock asked what if it is approved tonight and a month from now, under the new zoning code, it wouldn't be approved. He said that special permit wouldn't be allowed based on the new zoning code. He asked if they should be approving projects when a month from now they wouldn't be. He asked if it is going to be done pretty soon would it make sense to see what is going to happen with it first. Mr. Caraccioli said you get into a tricky area. He said short of the city adopting a moratorium on all building which he would never recommend, zoning

applications have to be taken on the face at the time the request is applied for and the Zoning Board and Planning Board have to rule on what is in front of them with the law that is present. He said he can't say for certain that the zone will change to prohibit drive thru's in that area. He said nothing has been finalized. He said they can't speculate on that. He said they would set themselves up for a sure lawsuit if they were to make a decision that was arbitrary because they were waiting for something to happen. Mr. Wheelock said he wouldn't say make a decision but maybe they could delay the decision until they have more information. Frank Clavelli, Jr. said they could wait and then the Common Council could vote it down so they would be back to the original zoning code. Mr. Caraccioli said at the end of the day the zoning code is a local law. He said the final document that is done by the Zoning Commission will go before the Common Council to vote on it. He said they will be able to modify it. He said they are some time away from that decision. He said it has been delayed to make sure it is being done properly. Mr. Wheelock said if this is approved and say three months from now the new code wouldn't allow it then other developers could say that was an unfair advantage to Dunkin Donuts. Frank Clavelli, Jr. said they have to follow the rules in front of them. Jim Bell said the process of rewriting the zoning is something they have been working towards for 14-16 months. He said it is an arduous process. Mr. Wheelock said he doesn't know what the new zoning code will say. Chairperson Sweet said this is off topic. Councilor McBrearty said they do have to follow the zoning code. She said the fact that it requires a special permit means that the Zoning Board has the ability to review the effect of this project at that site. She said there is nothing that says they must approve a drive thru every time someone wants it. She said it is unfortunate that it has been off of the tax rolls for a long time but is that justification for making a decision that will affect the city for generations to come. She said the notion that if they don't like it they can just take it away still leaves them saddled with a property with a drive thru at the entrance to the historic downtown. She asked if they are able to take into consideration recommendations by SHPO or the 2020 Vision Plan. She said in the 2011 version of the 2020 Vision Plan there is a clear delineation between south of Utica Street and north of Utica Street. She said north of Utica Street is referred to as Downtown Commercial. Frank Clavelli, Jr. asked if that is on the eastside also. Councilor McBrearty said she doesn't think it is. She said it is saying that there is a difference between south of Utica Street where you are leaving the city and you have a gas station which was put in before the 2020 Plan. She said if you were to be informed by these documents and opinions, it would be very difficult for anyone to hold them as being arbitrary because they have never been asked to put a drive thru in the downtown historic district. Chairperson Sweet said there are a lot of things in the 2020 Vision Plan that haven't come to fruition. She said Councils through the years have the right to change the points in there and what can be allowed at any time. She said they also have a Subway on the eastside of the river which is a franchise business. Councilor McBrearty said it isn't a drive thru. Chairperson Sweet said there are coffee shops downtown that are coming into play in the Dunkin Donuts project. She said it would be crazy to think that is not part of the reason some of the people are up in arms about this. Councilor McBrearty said they cannot exclude a business because it is Dunkin Donuts. She said they can exclude a drive thru in the historic entrance to downtown. Chairperson Sweet said for extenuating reasons. She said there are a lot of historical communities that have a Dunkin Donuts. She said Fayetteville has one. Councilor McBrearty said they are not evaluating a decision for Fayetteville. Chairperson

Sweet said they can also make it look historical. Councilor McBrearty said they can also not make it a drive thru. The next to come forward was Carrie Webb of 40 Ontario Street. She said she is the executive director of the YMCA. She said Dunkin Donuts has been a pleasure to work with. She said they did a walkability study. She said it would be nice to see Utica Street have crossing signs and lights with a countdown to cross. She said she thinks that could help with the safety issues people are bringing up. Frank Clavelli, Jr. said there are five councilors here. He said they have to spend the money to do it. Councilor Hill said he has heard very little from the third ward constituents. He said he has received nine letters in opposition mostly based on traffic concerns. He said he doesn't think it is appropriate for council members to give their personal opinions on an issue that could be construed as trying to influence their actions. He said that would open him up to liability. He said all of the letters were from people who live outside his ward. Anthony Pauldine said at the Planning Board Justin Rudgick said he got a price of \$65,000 to put a signal on the corner for pedestrian crosswalks. He said he thinks there should have been one there long before this proposal. He said that may be a great expenditure. He said if most of the 2020 Vision Plan had been made into law there would not be a Dunkin Donuts that looked like this. He said unfortunately it is not law. He said he hopes that the thousands that signed the petition will make a presentation to the Common Council that they accept the 2020 Vision Plan and change the new code to reflect that. He said when the Colonial Laundromat was built on the eastside there was a terrible hubbub because it was not representative of the downtown. He said they have exactly the same laws and situation now. He said he personally does not like it but he can't vote against it. He said he implores them to bring those grievances to the Common Council and that would be better suited for the good of the whole community. Chairperson Sweet said the criteria for a special permit are A) Be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities. B) Be in accordance with the City Master Plan and provide any appropriate conditions and safeguards in harmony with the general purpose of this chapter. C) Cause no undue traffic congestion or create an unnecessary traffic hazard. D) Include traffic access, interior circulation and parking and loading spaces, adequate in location and design. E) Not have a substantially adverse effect upon the character of or property values in the area. F) Incorporate adequate safeguards, screening fences and landscaping to protect and maintain the harmony of the surrounding area. G) Not otherwise impair the public health, safety and general welfare. Mr. Caraccioli said if there is a motion to approve it would have to be conditioned upon site plan approval by the Planning Board.

RESOLVED, that a Special Permit be granted to allow for a drive-in contingent on Planning Board site plan approval.

MOTION MADE BY ZONING BOARD MEMBER: Chairperson Sweet

SECONDED BY ZONING BOARD MEMBER: Matthew Brancato

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-83

IN THE MATTER OF: Robert McGrath

WHEREAS, Robert McGrath, owner of property situate in an Residential, R2 Zoning District in the 1st Ward of the City of Oswego, New York, with address 16 West Fifth Street, being Tax Map Number: 128.37-03-07, has applied for a Fence Height Variance in accordance to Section 280-80 of the City of Oswego Code, to allow for the construction of a new eight foot (8') high fence and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

Robert McGrath of 16 West Fifth Street was present for the discussion, as well as Councilor McBrearty. Mr. McGrath said he built a house on a small lot so he is very close to his neighbors. He said he on the south side of his lot he doesn't have a fence so he would like to come 12' off of his property line with an 8' fence to block his view of his neighbor's house. He said across the back is a 5' fence that he would like to take down and make it 8' and on the north side is an existing 8' fence that needs repair. He said he would like to take everything down and put up an 8' fence. Jim Bell said he could put up a 6' fence but the additional 2' requires a variance. Mr. Caraccioli asked if it is up front. Mr. McGrath said it is in the back. Chairperson Sweet asked if there were any comments from the audience and Councilor McBrearty came forward. She said she spoke to the neighbors and they are all in favor of the project.

RESOLVED, that a Fence Height Variance be granted to allow for the construction of a new eight foot (8') high fence.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-84

IN THE MATTER OF: John Salvador

WHEREAS, John Salvador, contract purchaser of property situate in a Residential, R3 Zoning District in the 4th Ward of the City of Oswego, New York, with address 236 East Twelfth Street, being Tax Map Number: 128.50-05-08, has applied for a Fence Height Variance in accordance to Section 280-80 of the City of Oswego Code, to allow for the construction of a new six foot (6') high fence and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

John Salvador of 210 East 6th Street was present for the discussion, as well as Councilor Wilmott. Mr. Salvador said he is looking to put up a 6' fence to enclose the property. Jim Bell said Mr. Salvador is the contract purchaser. He said he has two front yards and in the front yard he is only allowed a 4' high fence. He said he is asking for a 6' high fence to retain three big dogs. Chairperson Sweet asked if there were any comments from the public and Councilor Wilmott came forward. He said being on the corner he didn't want it blocking the view of the intersection. He said he is keeping it tight to the house. Mr. Salvador said he spoke to the neighbor that will be most affected by it and she wants a chain link fence. Councilor Wilmott said he has no concerns.

RESOLVED, that a Fence Height Variance be granted to allow for the construction of a new six foot (6') high fence.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Chairperson Sweet

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-86

IN THE MATTER OF: John Boardway

WHEREAS, John Boardway, owner of property situate in a Residential, R3 Zoning District in the 6th Ward of the City of Oswego, New York, with address 274 Cherry Street, being Tax Map Number: 128.65-06-04, has applied for a Side Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow for the construction of a new 12'x16' storage building and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

John Boardway was present for the discussion, as well as Councilor Tesoriero. Mr. Boardway said he would like to finish building his shed. Jim Bell said Mr. Boardway started the project. He said it was determined he needed a variance so he stopped the progress to get permission. Frank Clavelli, Jr. asked if there was a barn there before. Mr. Boardway said yes. He said he made it a little bigger. Chairperson Sweet asked if there were any comments from the audience and Councilor Tesoriero came forward. He said he canvassed the neighborhood and they are all in favor.

RESOLVED, that a Side Yard Setback Variance be granted to allow for the construction of a new 12'x16' storage building.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Chairperson Sweet

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-85

IN THE MATTER OF: Jessica Woodruff

WHEREAS, Jessica Woodruff, owner of property situate in a Residential, R3 Zoning District in the 7th Ward of the City of Oswego, New York, with address 17 Miller Street, being Tax Map Number: 146.31-05.01, has applied for a Special Permit in accordance to Section 280-55(B) of the City of Oswego Code, to allow for front yard parking and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

Jessica Woodruff was present for the discussion. She said she would like to expand her current driveway to allow for more off-street parking. She said they have several vehicles and it will be difficult during the winter to get them off the road. Chairperson Sweet asked if it is a two car driveway. Ms. Woodruff said yes. Anthony Pauldine asked if it will be concrete. Ms. Woodruff said yes. Jim Bell said she would have the ability to not ask to do this by paving further back and cover her side yard but she chose to pull back the amount of parking area that she created just enough to accommodate her needs so she needs front yard parking.

RESOLVED, that a Special Permit be granted to allow front yard parking.

MOTION MADE BY ZONING BOARD MEMBER: Chairperson Sweet

SECONDED BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-87

IN THE MATTER OF: Tom McCaffrey

WHEREAS, Tom McCaffrey, owner of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 131 West Seneca Street, Tax Map Number: 127.60-05-22, has applied for a Rear Yard Setback Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow separation of the property into two properties and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

Tom McCaffrey of 131 West Seneca Street was present for the discussion. Mr. McCaffrey said he has property that has two structures and he needs to separate them to sell the house on the corner. Jim Bell said he has a parcel with two houses on it. He said one is a two-family house and one is a single family house. He said the entire property is recognized as 131 West Seneca Street. He said the other house has been recognized as 76 Ontario Street for 911. He said it is not recognized by the county in that fashion and it does not have an independent tax map. He said he is trying to define the two properties. He said by cutting it in half he has created some variances. He said he is doing this as a need to be able to continue to reside at 76 Ontario Street and he anticipates selling 131 West Seneca Street. He said currently there is one parking space for both houses. He said he is looking for a special permit for front yard parking so there is the ability to create a parking space for 131 West Seneca Street. He said there is a typo in there. He said the special permit for front yard parking is labeled as 76 Ontario Street. He said it should read 131 West Seneca Street. He said everyone was notified because it is the same parcel. Mr. Caraccioli said in the legal business they declare this a harmless error. He said it is all one tax parcel and there would be no new neighbors that would have missed the notice. He said current zoning states one dwelling per lot is standard. Jim Bell said it would never be allowed today. Frank Clavelli, Jr. said the curb cut is already there. Chairperson Sweet asked if anyone in the audience wanted to speak to this and Mary Kay Stone came forward. She said if everyone in the neighborhood didn't realize it was not already two properties she is sure they were surprised by the notice. Chairperson Sweet said it is more housekeeping right now to split the property.

RESOLVED, that a Rear Yard Setback Variance be granted to allow separation of the property into two properties.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-88

IN THE MATTER OF: Tom McCaffrey

WHEREAS, Tom McCaffrey, owner of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 131 West Seneca Street, Tax Map Number: 127.60-05-22, has applied for a Maximum Lot Coverage Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow separation of the property into two properties and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

Jim Bell said the present principal use of 131 West Seneca Street says single family dwelling. He said it is recognized by the county as a two-family dwelling on a multiple residence tax parcel. He said that is an additional typo. Frank Clavelli, Jr. said that would also apply to 18-87. Jim Bell said yes.

RESOLVED, that a Maximum Lot Coverage Variance be granted to allow separation of the property into two properties.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-89

IN THE MATTER OF: Tom McCaffrey

WHEREAS, Tom McCaffrey, owner of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 131 West Seneca Street, Tax Map Number: 127.60-05-22, has applied for a Maximum Lot Coverage Variance in accordance to Section 280-25(A) of the City of Oswego Code, to allow separation of the property into two properties and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Maximum Lot Coverage Variance be granted to allow separation of the property into two properties.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine

CITY OF OSWEGO, NEW YORK

ZONING BOARD OF APPEALS

RESOLUTION

CASE NO: 18-90

IN THE MATTER OF: Tom McCaffrey

WHEREAS, Tom McCaffrey, owner of property situate in a Residential, R3 Zoning District in the 1st Ward of the City of Oswego, New York, with address 131 West Seneca Street, Tax Map Number: 127.60-05-22, has applied for a Special Permit in accordance to Section 280-55(B) of the City of Oswego Code, to allow for front yard parking and;

WHEREAS, due public notice having been given of a Hearing on said matter to be held on the 17th day of July 2018 and the applicant having appeared and no one appearing in opposition.

RESOLVED, that a Special Permit be granted to allow for front yard parking.

MOTION MADE BY ZONING BOARD MEMBER: Frank Clavelli, Jr.

SECONDED BY ZONING BOARD MEMBER: Anthony Pauldine